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Addendum

Contribution from the International Labour Organisation

The annexes to the present document contain the contributions submitted by the International Labour Organisation, in accordance with the six objectives listed in document A/CONF.157/PC/20.

Annexes I to IV entitled "The Protection of Specific Groups by the ILO", "The involvement of the ILO in Human Rights - Concerns related to the Administration of Justice", "Child labour: the ILO contribution" and "ILO action to ensure coherence between standards and technical cooperation for the furtherance of human rights", respectively, are concerned with objective 1.

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In connection with objective 2, the contribution entitled "Relationship between human rights, development and democracy" is reproduced in Annex V.

Annexes VI to VIII entitled "Reservations to the ratification of Conventions in ILO practice", "Streamlining implementation procedures" and "The contribution by non-governmental organizations to human rights: the ILO experience", respectively, refer to objective 3.

With regard to objective 4, an "Inventory of human rights modalities of the United Nations system: the ILO's information and training activities" is reproduced in Annex IX.

Annexes X to XII, entitled "Technical assistance in the amendment of national legislation", "Streamlining reporting mechanisms and comparing and analyzing procedures" and "Improving coordination and cooperation within the United Nations system" fall under objective 5.

Annex XIII entitled "UN Centre for Human Rights as a co-ordinating unit and focal point for human rights questions in the UN" reproduces the contribution received under objective 6.

Finally, a "Select bibliography of ILO publications concerning human rights" is reproduced in Annex XIV.

Annex I

The Protection of Specific Groups by the ILO

Protection of specific groups, including those most in need of protection, is an essential part of the ILO's work. The ILO naturally carries out this task within its mandate, which does not aim at the overall protection for these groups which is the approach of the United Nations itself[1], but which allows a concentrated effort within the limits of the ILO's competence.

The ILO's mandate concentrates, of course, on the world of work. Yet this is a wider framework than it might seem at first glance. A very large part of the effects of discrimination or of exploitation is expressed through the means of access to or denial of the right to participate in economic activity. Forced labour, discrimination in employment, child labour, and freedom of association are all questions of fundamental human rights, in which various groups require protection in relation to work. The ILO concentrates on their protection within the economic sphere.

The groups protected by the ILO

The "Declaration of Philadelphia",[2] which is annexed to the ILO Constitution, defines the principal groups which the Organisation is to protect. These include workers and employers exercising freedom of association, women, children and migrant workers. By mandating the ILO also to work for the abolition of discrimination in employment, other groups are brought within its action.

The ILO's principal means of action is the adoption of international Conventions and Recommendations, and the supervision of their implementation by ratifying States. These Conventions and Recommendations often define groups to be specially protected. There are, for example, 11 ILO Conventions intended specifically to protect children from being employed or working; and many others which set such conditions as the hours of work permitted for young workers, require medical examinations before they can be employed, etc. The ILO has also adopted Conventions dealing with the conditions of work of seafarers and fishermen, agricultural workers, older workers and other designated groups in need of special protection, but special attention will be given to a selection of the groups protected by the ILO in the context of the World Conference on Human Rights.

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1 There is one exception, concerning indigenous and tribal peoples; in this instance the ILO acts on behalf of the United Nations system as a whole. See below.

2 Declaration concerning the aims and purposes of the International Labour Organisation, adopted at the 26th Session of the International Labour Conference on 10 May 1944 (Philadelphia, 1944).

In addition to the activities described below, the ILO has worked for many years for the improvement of the situation of workers affected by apartheid, and workers in the occupied Arab territories. While no information on these extensive activities is included in the present paper, these activities have been reported in detail to the United Nations bodies working in these areas.

This paper will concentrate on the following specific groups:

- workers' and employers' organizations protected by the ILO's instruments on freedom of association;
- those subject to discrimination in employment and work on the basis of race, colour, sex, religion, political opinion, national extraction or social origin;
- women at work;
- children and young workers;
- migrant workers;
- disabled workers; and
- indigenous and tribal peoples.

Specific ILO standards, examined below, have been adopted for all of these groups, and other Conventions and Recommendations contain provisions specially applicable to them. When they are implemented through the ILO's highly-developed system for supervision of obligations, supported by its programme of technical assistance, they form the basis for national action in almost all the countries of the world.

An explanation of the ILO's system for the adoption and supervision of standards is contained in UN document A/CONF.157/PC/6/Add.3, submitted to the first session of the Preparatory Committee for the World Conference.

I. Protection of the right of freedom of association

This is of course one of the most basic ILO principles: that workers and employers have the right to organise freely to protect their interests, to join and form organisations of their own choice for the purpose, and to run their own affairs without undue interference from each other or from the government.

Do these organizations require specific protection? Most certainly. Both the organizations and the individuals composing and representing them are subject to attack and discrimination, and are protected by ILO standards. If trade unions have acquired considerable influence in some developed countries, in most of the developing world they remain subject to manipulation and exploitation by governments and by employers. Their leaders are often the subject of arrest and imprisonment, torture and exile. In most countries of the world, trade unions are the only organized force in the country outside the army, explaining why they are often the first to be imprisoned or exiled when there is unrest in the country. The representatives of workers' organizations are often subjected to discrimination and ill-treatment in the workplace. Employers' organizations also can be subject to brutal repression, for instance in countries where private enterprise is held to be ideologically unacceptable, and are in equal need of protection.

The principle of freedom of association is contained in the Declaration of Philadelphia, and is considered to be a fundamental part of the ILO's mandate. Two of the best-known ILO Conventions develop the

principles of freedom of association: the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98). There are also other Conventions on specific aspects of the subject, such as the Rural Workers' Organisations Convention, 1975 (No. 141), and the Workers' Representatives Convention, 1971 (No. 135). Their implementation is examined by the ILO's regular supervisory bodies whenever the country concerned has ratified them.

Convention No. 87 provides for the right of workers and employers, without any distinction whatsoever, to establish and join organizations of their own choosing with a view to furthering and defending their interests. These organizations have the rights to run their affairs, to establish and join federations and confederations which shall enjoy the same rights and guarantees, and to affiliate with international organizations. Convention No. 98 goes on to provide protection for workers when they are exercising the right to organize; lays down the principle of non-interference between workers' and employers' organizations; and promotes voluntary collective bargaining.

It should be noted that in Article 8 of the International Covenant on Economic, Social and Cultural Rights which guarantees the right to freedom of association, paragraph 3 states that "Nothing in this article shall authorize States Parties to the International Labour Organisation Convention concerning Freedom of Association and Protection of the Right to Organise to take legislative measures which would prejudice, or apply the law in such a manner as would prejudice, the guarantees provided for in that Convention."

Compliance with the Conventions on freedom of association is supervized by the ILO Committee of Experts on the Application of Conventions and Recommendations in the same manner as all other ILO instruments. A special procedure applies in this regard, however, which is not available in the ILO to protect other rights. The Committee on Freedom of Association of the ILO Governing Body, and the Fact-Finding and Conciliation Commission on Freedom of Association, were established in the ILO after agreement with the Economic and Social Council of the United Nations in 1950. They examine complaints of violations of freedom of association without regard to whether the State concerned has ratified the relevant ILO Conventions; and the Fact-Finding and Conciliation Commission can even examine complaints against non-Member States if the State concerned agrees. The Committee on Freedom of Association is one of the most active and effective human rights complaints bodies in the international system. It is often called upon to deal with situations of extreme urgency when workers' and employers' organizations or representatives are under fire from their governments. The Committee, and the Director-General on its behalf, often intervenes to secure the release from prison of trade unionists, or permission for them to return from exile. It may be called upon to decide on delicate problems of whether a particular kind of action is a proper trade union function, or whether it goes over into the political arena. The ILO has become a very active participant in the protection of these organizations all over the world.

In a recent case of significant interest, the Fact-Finding and Conciliation Commission of the ILO examined a complaint against South Africa in 1992, and carried out an on-the-spot mission with three independent personalities to examine the situation. It adopted a report in May 1992 which was then submitted to the UN Economic and Social Council in accordance with the established procedure.

The supervisory activity carried out by the ILO under these Conventions, and in accordance with the principles of freedom of association, is supplemented by intense training and assistance for workers' organizations and, to a slightly smaller extent, for employers' organizations. This includes seminars carried out by the technical unit responsible for supervising these principles, the Department of International Labour Standards and Human Rights, and by the Workers' Education service. The principle of freedom of association is integrated into all the ILO activities, and is of course reflected in the structure of the ILO itself.

II. The right to be free from discrimination in employment and occupation

The annotations to the "Report on Studies and Documentation for the World Conference" states that the study under objective 1 "should focus on equality as the fundamental rule of international human rights law", and states that this should be examined taking into account, inter alia, instruments adopted by the ILO.

Most ILO Conventions apply without distinction to all persons in the workplace, with the exception of those intended to protect special categories of persons (women, children, etc.) The ILO also has the mission to promote equality or opportunity and treatment in respect of employment and occupation more generally.

The Discrimination (Employment and Occupation) Convention, 1958 (No. 111) requires ratifying States to promote equality of opportunity and treatment through a national policy aimed at eliminating all forms of discrimination in respect of employment and occupation. Discrimination is defined as any distinction, exclusion or preference based on race, colour, sex, religion, political opinion, national extraction or social origin. The State concerned may also designate other grounds on which it undertakes to apply the Convention. The Convention covers access to vocational training, access to employment and to particular occupations, and terms and conditions of employment. The Convention also provides that special measures of protection or assistance provided for in other ILO Conventions or Recommendations shall not be deemed to be discrimination; nor shall any distinction, exclusion or preference in respect of a particular job based on the inherent requirements thereof. The Convention has been ratified by 112 countries.

The implementation of the Convention has certainly known some success over the years. Most countries of the world have provisions in their labour legislation which prohibit discrimination in employment, and the majority of them are modeled on Convention No. 111 or take account of it.

An increasing number of countries have established machinery to combat discrimination in employment, and significant differences can discerned in recent years in many of them in the treatment of various minority or other disadvantaged groups.

Nevertheless, in its 1988 General Survey on the application of Convention No. 111, the Committee of Experts on the Application of Conventions and Recommendations noted that equality in employment could not be fully realised in a general context of inequality. Inequality in social status leads inevitably to inequality of treatment, and above all to inequality of opportunity in employment. Achievement of a general climate of equality of opportunity and treatment does not depend solely on law and regulations, but must be based also on education which covers employment but is not limited to it.

There is in fact no country in the world in which the problem of discrimination does not arise. Far from receding, situations of discrimination are multiplying as situations which have their origins in tribal, ethnic or religious differences grow into active conflicts.

III. The elimination of discrimination against women

The ILO Constitution contains, in the Declaration of Philadelphia, the affirmation that "all human beings, irrespective of race, creed or sex, have the right to pursue their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity", and that "the attainment of the conditions under which this shall be possible must constitute the central aim of national and international policy".[3]

Although most international labour standards apply without distinction to men and women workers, there are a number of Conventions and Recommendations which refer specifically to women. The ILO's standard-setting work in this area has been based on two central concerns. The first has been to guarantee equality of opportunity and treatment as concerns access to training, employment, promotion, organisation and decision-making, as well as securing equal conditions of remuneration, benefits, social security and welfare services provided in connection with employment. The second has been to protect women workers especially in relation to conditions of work which may entail risks for maternity.

There are three principal ILO Conventions which cover this subject.

1. The Equal Remuneration Convention, 1951 (No. 100) provides for equal remuneration for men and women for work of equal value. The Convention is supplemented by the Equal Remuneration Recommendation, 1951 (No. 90). The principle may be applied by means of national laws or regulations, legal machinery for wage determination, collective agreements or a combination of these means, including the objective appraisal of jobs. The Convention has been ratified by 114 countries.

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[3] ILO Constitution, Declaration concerning the aims and purposes of the International Labour Organisation ("Declaration of Philadelphia"), point II (a) and (b).

Even beyond their international engagement, a growing number of States have taken legislative measures to ensure the application of the principle of equal remuneration. However, the ILO views with a certain concern the fact that the definitions and criteria used in national legislation to compare the value of jobs are often more limited than those defined in the Convention (and in the International Covenant on Economic, Social and Cultural Rights which later took up this same idea in shorter form in Article 7(a)(i)). Many of them speak of "equal pay for equal work", a much more limited concept. In order to guarantee equal remuneration to men and women for work of equal value, it is important that there exist a mechanism and a procedure which allows a guarantee that the criterion of sex is not taken into consideration when comparing the value of jobs.

Given the many causes of inequality of remuneration between men and women workers, the best results appear to have been obtained in countries in which global action has been taken to correct all aspects of the situation at once. Some countries have established specialised bodies or agencies with sufficiently wide powers to draw up programmes and coordinate measures to promote equality of opportunity and treatment in general, including equality of remuneration.

The ILO Committee of Experts on the Application of Conventions and Recommendations carried out a General Survey of the application of Convention No. 100 in 1986. It noted in that Survey that, whatever the measures put into place to achieve equality of remuneration, it was essential that organisations of employers and workers be fully engaged in achieving the objectives of the Convention in order to ensure as fully and rapidly as possible that discrimination be eliminated on all wage scales as well as in collective agreements. This engagement is particularly important in times of economic hardship when there is a temptation to give priority to other questions.

2. The Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (supplemented by Recommendation No. 111 of the same title) is the other major ILO Convention that promotes equality of rights between men and women in the workplace, and is examined in detail above. The ILO has given special attention in recent years to the application of these principles to discrimination on the basis of sex.

3. The Workers with Family Responsibilities Convention, 1981 (No. 156). The objective of this instrument is to create effective equality of opportunity and treatment for men and women workers with family responsibilities. It applies to both men and women workers with responsibilities for their dependent children or other members of their immediate families where such responsibilities restrict their possibilities of participating in economic activity.[4]

4. Protective measures for women. It is important to remember in this connection that a number of ILO Conventions provide protection for women in employment especially in relation to conditions of work which may

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[4]The Committee of Experts on the Application of Conventions and Recommendations is presently carrying out a General Survey of the effect given to this Convention, which will have been published before the World Conference takes place. It will be adopted at the March 1993 session of the Committee.

entail risks for maternity. A large number of ILO Conventions provide for special conditions of work and special protection for women when they would be endangered by exposure to particular substances or situations in the workplace; and others provide for social security protection for women in pregnancy and child-bearing.

5. Operational considerations. Three characteristics of work by women provide the most striking evidence of discrimination in employment on the basis of sex, and are the prime focuses of the ILO's attention.

The first is occupational segregation, which operates by designating certain occupations as more "appropriate" for one sex or the other. Occupational segregation can take place on a horizontal basis, in the form of a reduced list of sectors of activity and types of occupations which include a high proportion of women, as compared to the wider range of activities occupied mainly by men; or in the vertical sense, as evidenced by the "glass ceiling" which prevents women from having access to posts with greater responsibility and decision-making power.

The second characteristic is the gap in remuneration between men and women, based to a large degree on occupational segregation but which also involves discrepancies in remuneration for work of equal value.

The third characteristic lies in the "double work day" which faces women who carry out an economic activity, but who must also assume family and domestic responsibilities almost alone. This involves an unequal workload between the sexes, as well as imposing limitations on the ability of women to compete on equal terms with men in the labour market.

In spite of continuing increases in the rates of participation by women in the labour force during the last twenty years, women continue to encounter greater difficulties than men in access to employment, and they are the group most vulnerable to unemployment. The great majority of women workers are found in jobs involving the least qualifications, lowest remuneration and least security, and worst working conditions. Discriminated against in the formal labour market, women in the developing countries in particular resort more often than men to work in the informal urban sector and to subsistence activities in rural areas.

Discrimination against women in work is largely the result of cultural factors which assign different social roles to men and women in both the public and private spheres. Women are often restricted to family and domestic tasks, reducing the importance of their economic role. This results in women being considered a secondary labour force, whose income is simply a complement to the family unit. In fact, however, the large majority of women want and need to work, and their income-earning capacity is essential for their own survival and that of their families. In addition, women are principally responsible for the economic subsistence of approximately one-third of households in the world.

The ILO's action in this field has taken the form of combating these discriminatory practices, and in assisting member States to adopt policies and measures which guarantee real equality of opportunity for men and women in the context of work. Activities include research, evaluation, meetings, technical cooperation and dissemination of information on the

subject, and they have contributed to increasing consciousness of the forms and magnitude of discrimination against women and of its significance in terms of human rights, social justice and lost potential for development. The ILO's practical activities have therefore concentrated on stimulating an increase in the quantity and quality of employment accessible to women, increasing and diversifying their opportunities for training, and improving their working conditions, ability to organ for their own defense and participation in decision-making.

The ILO considers participation by women in working life on an equal footing to be a key element in economic and social development. Women should not simply be allowed to have equal access to the benefits of development, they should also be able to participate actively in its construction. They constitute an underutilised human resource and their economic contribution remains largely invisible and undervalued. The question of gender should always be taken into account in development planning, so that the needs, interests and contributions of both women and men can be taken fully into account on an equal basis.

The ILO's work takes place within the general context of action by the UN system as a whole to improve the situation of women. The Division for the Advancement of Women, located in the United Nations Office in Vienna, acts as the focal point for coordination in the system, and regularly convenes interagency meetings in which common strategies can be agreed upon and and contributions can be made to the International Commission on the Status of Women.

V. Migrant workers

The Declaration of Philadelphia mandated the ILO to work for the protection of migrant workers, along with other vulnerable groups among the economically actively population. The first of the principal ILO instruments on the subject is the Migration for Employment Convention (Revised), 1947 (No. 97), which requires ratifying States to establish services to assist and protect migrants for employment and their families, and to provide for equality of treatment with its own nationals for migrants lawfully in the country. Ratifying States should conclude agreements with other States from which significant numbers of migrants come, in order to provide further protection. The Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143) aims at suppressing illegal migration for employment, and provides for additional measures to assure equality of treatment for migrant workers. The Equality of Treatment (Social Security) Convention, 1962 (No. 118) provides for equal treatment of migrant workers in terms of social security, on a reciprocal basis with other countries which have ratified the same Convention.

The United Nations adopted, in 1990, an International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families. The ILO took an active part in the deliberations leading to its adoption and when the Convention comes into force, will also participate in its supervision.

Recent events involving massive expulsions of workers have illustrated the importance of putting into place workable mechanisms for the protection of the workers - and, of course, the protection of the countries from which they have come. The sudden repatriation of large numbers of workers can be disastrous for their countries of origin, which often have highly precarious economic conditions, putting workers and their national economies at terrible risk. Such situations have also pointed up the terrible conditions under which migrant workers must often survive, and their need for protection.

Recent operational activities in this field cover a wide range of activities.[5] Attention has been focused on female domestic workers in recent case studies carried out in several recent studies in Europe, Latin America and Asia. The ILO's Asian Regional Regional Programme on Labour Migration has provided training in social security protection for migrant workers in that region, and the training of labour attachés has been addressed in a recent seminar which concentrated on migrants' problems in Middle Eastern countries of employment. Another seminar took place in Tunis in December 1992 to familiarize North and West Africa trade unionists with national and international law designed to protect migrant workers.

Another activity launched recently concerns discrimination at the workplace of non-national migrant workers, and national workers of different origin, in countries where discrimination is prohibitied by law but subsists in practice. This will measure the effectiveness of redress mechanisms, evaluate training courses given by enterprises and governments, and examine how this training can be improved.

With a view to giving concrete shape to the idea of providing alternatives to international migration, the ILO and the United Nations High Commission for Refugees held a meeting in May 1992 to evaluate case studies they had carried out on international aid as a means to reduce the need for emigration. This research has shown that it is possible to target international development assistance on population groups or regions characterised by a high degree of emigration. As a result of this work, a programme for the Mahgreb countries is under preparation.

The proposals for the Programme and Budget of the ILO for 1994 and 1995 provide for a special Inter-Departmental Project to protect and promote the rights of migrant workers.

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[5]For further information see ILO Governing Body document GB.254/CD/2/2, November 1992.

V. Disabled workers

In accordance with international labour standards, workers enjoy social protection in the event of disability, the principal aim being to ensure that disabled workers have equitable access to employment and income from work. The underlying concept is that disabled workers who are job-ready, after a process of rehabilitation, are not unjustifiably barred from access to jobs and are not denied the opportunity to choose their employment freely. The ILO's Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No.159), which has been ratified by 43 countries, reaffirms the right of disabled people to equal treatment in training and employment, and calls on governments and on employers' and workers' organizations to ensure that policies are pursued which protect disabled peoples' right to secure, retain and advance in employment.

The need for protective legal provisions to ensure employment equity for disabled workers is a reflection of persistent discrimination experienced by disabled job-seekers and/or disabled employees. Labour market participation rates are significantly lower among disabled people than among the total working population. Jobs held by disabled persons are often precarious jobs, which in times of enterprise restructuring or in a depressed economy are among the first to be abolished. Finally, disabled employees often hold only low-paid jobs and are frequently excluded from career advancement and related upgrading or retraining measures.

The right to choose employment freely and to earn a fair income from work is not applied where the only real opportunity open to disabled people is to work in sheltered conditions, frequently under sub-standard conditions of employment and remuneration. Another form of discrimination is occupational segregation, which means that certain occupations or the manufacturing of certain products are considered specifically appropriate for a certain category of disability, and disabled people are thus compelled to exercise this activity irrespective of their inclinations, desires and abilities.

Discrimination in employment is frequently the result of discrimination in education and vocational training, which makes it difficult for disabled people to compete on the open labour market despite their varied talents and abilities. Also deeply rooted fears, negative attitudes towards disability and false assumptions about disabled peoples' work capacity lead to exclusion and segregation. One of the most forceful grounds for discrimination against disabled persons in employment remains in most countries the fact that society has erected many physical barriers, e.g. in transport, housing and in the workplace, so that disabled people meet obstacles which prevent them from realizing realistic job opportunities. These objective obstacles - and not the disability as such - are often referred to by employers when rejecting job applications by disabled persons.

ILO action to combat discrimination against disabled persons includes advice on policy and anti-discriminatory legal provisions, the development of services which strengthen the capacity of disabled persons to be competitive on the open labour market, advice on adjustments at training and worksites and the introduction of support systems which facilitate the integration of disabled persons in the labour market and the strengthening of grassroots organizations of disabled persons to empower them to become competent self-advocates and to stand up for their

rights. It is an essential part of the ILO's efforts to promote a more accomodating environment for the integration of disabled people into a more accomodating environment for the integration of disabled people into employment that the role of employers' and workers' organizations in this field is strengthened.

The ILO also participates actively in the efforts of the United Nations to develop Standard Rules on the Equalisation of Opportunities, and to formulate and implement a long-term strategy for the period after the UN Decade of Disabled Persons, which has as its guiding principle a "Society for All". In this framework it will be the ILO's task to promote the concept that the diversity of society - including its vulnerable groups - is fully reflected in the workforce.

VI. Indigenous and tribal peoples

The ILO has been concerned with the situation of indigenous and tribal peoples since 1921. According to conservative figures there are about 300 million indigenous and tribal peoples around the world, representing 4.8% of the world population. There are profound differences among them in terms of the ecological environment they inhabit, cultural integrity, economic organisation, social and religious practices, and degree and terms of relationship to national political and economic systems.

Notwithstanding these differences, indigenous and tribal peoples share many common characteristics, and many common problems. These include exploitation and social exclusion, weak representation in national political systems, limited access to basic assets and services, and cultural discrimination. In rural areas, indigenous and tribal peoples have been gradually losing control over their traditional lands thus becoming landless, debt peons, tenant or marginal farmers. In urban areas, they are an uprooted, unskilled, unorganised and unprotected labour force. Indigenous and tribal peoples are often caught up in armed conflicts, where they are the victims of abuses not only by government forces but also by armed opposition groups.

Only in recent years has the wider international community started to become concerned with the social disruption, cultural destruction and physical disappearance of indigenous and tribal peoples. There is an increasing recognition that cultural diversity is not an obstacle to national development, but on the contrary can foster and contribute to it. Closely linked to this point is the increasing awareness that a wealth of accumulated knowledge adapted to local conditions is being lost with the extinction of indigenous societies. This has become a particularly important issue, with many indigenous and tribal peoples living in ecologically threatened areas and being the most vulnerable to environmental resource crisis.

Moreover, the sharp growth in inter-ethnic conflicts worldwide has made apparent the need for a new relationship between the State and

indigenous and tribal peoples (and, of course, other minority groups). The conceptual national model based on the imposition of a unique model of development and of artificial cultural homogeneity has failed to guarantee a pacific and fruitful coexistence.

The ILO's principal goals in this field are to promote the human rights of indigenous and tribal peoples, and to enhance their position within national societies, with respect for their cultural specificity. To attain these goals the ILO has two means of action: specific standards on the subject and a targeted technical cooperation programme. These two instruments are closely linked to one another and are mutually supportive.

ILO standards on the subject provide the guidelines for operational activities, while development assistance contributes to the creation of the environment conducive to the exercise of the rights established by them. Standards can be a very powerful tool of social transformation, but they are not sufficient. Complementary efforts have to be made to empower indigenous and tribal peoples economically, socially and politically.

A. The legal dimension of ILO action

1. Standard-setting

ILO Conventions Nos. 107 and 169 are the only two international legal instruments adopted specifically on the subject by the international community.

The Indigenous and Tribal Populations Convention, 1957 (No. 107), ratified by 27 countries, was the only Convention on the subject for 32 years. Adopted by the ILO with the full cooperation and collaboration of a number of other organizations in the United Nations system, it covers a wide number of issues, ranging from the working and labour conditions, and recruitment of indigenous and tribal peoples, to land rights, health and education.

During the last part of the 1970s and throughout the 1980s some indigenous organisations, and a number of intergovernmental agencies and governments, started expressing disagreement with the philosophy and approach of Convention No. 107, since it was perceived as having an "integrationist" orientation in June 1989 the International Labour Conference adopted Convention No. 169 on Indigenous and Tribal Peoples, which took a very different approach.[6]

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[6]Convention No. 169 revises Convention No. 107, which means that

During the drafting of Convention No. 169, a special appeal was made to governments to consult indigenous and tribal peoples in formulating their views on the proposed instrument. For the first time a space was made for NGOs representing indigenous and tribal peoples in the written consultations and in the meetings of the Conference to express their views, to submit amendments to the draft during the discussion (indirectly through the workers' representatives), and to address both the committee and the plenary sittings of the Conference.

Convention No. 169 fixes goals and priorities, and contains standards defining the minimum level below which the conduct of government must not descend. It sets goals toward which governments should work, while laying down guidelines for a participatory approach to decision-making and providing a number of specific protections.

The basic principle of this Convention is respect for the cultures and ways of life of indigenous and tribal peoples, and their right to continued existence and to development, along the lines they themselves wish. The Convention contains provisions to orient the relationship between indigenous and tribal peoples and the State, including protection against discrimination, protection of their cultural and religious heritage and a requirement for impact studies in relation to development projects, whenever appropriate.

Convention No. 169 recognises that these peoples have the right to self-identification, and accords them the respect of designating them as "peoples". It provides that governments must consult with indigenous and tribal peoples within their countries on development projects and other activities affecting them, and lays down criteria for these consultations. It provides for respect not only for cultural manifestations, but for traditional ways of life and legal systems, within the framework of national and international law. It includes provisions on land rights which require respect for traditional occupation and provide for measures to recognise and protect these rights. These rights include participation in the management and benefits of resource exploitation on indigenous and tribal peoples' lands, and the right to refuse displacement from their lands except in exceptional circumstances and against compensation. The Convention provides for educational and health protection, and recognises the right of these peoples to assume progressively the management of their

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Convention No. 107 is closed to further ratifications as from 5 September 1991 but remains binding on countries which ratified it. If they ratify Convention No. 169, however, this replaces the ratification of Convention No. 107 by what is known as an "automatic denunciation". This has so far applied to the ratifications of Convention No. 169 by Bolivia, Colombia and Mexico, which had earlier ratified Convention No. 107.

educational and health services when they are capable of doing so. It provides special protection for them in labour, where they are often particularly vulnerable. Finally, it recognises that the situation of indigenous and tribal peoples in different countries, and even within the same country, may vary enormously, and stipulates that the Convention is to be applied in a flexible manner.

2. Relationship to standard-setting in other international organisations

Conventions Nos. 107 and 169 were both drafted in close cooperation with the United Nations system, including the United Nations, FAO, UNESCO and WHO; and when drafting Convention No. 169, the International Labour Conference also benefited from the advice of the Inter-American Indian Institute of the OAS. Convention No. 169 is thus the most comprehensive and up-to-date instrument on the subject. Both the United Nations and the Organization of American States are working on instruments in the field, however, and it thus becomes necessary to examine the relationship between these standard-setting efforts.

The United Nations Working Group on Indigenous Populations of the Sub-Commission on Prevention of Discrimination and Protection of Minorities is working on a draft Universal Declaration of Indigenous Rights, which it hopes to complete in the Working Group in 1993. This drafting process has benefited from a great deal of advice and input from indigenous peoples and other non-governmental organisations. As a declaration, it should be drafted in such a way as to express the highest aspirations of these peoples. The draft, when adopted at the Working Group level, will then have to be discussed by higher instances in the United Nations, before being submitted to the General Assembly for adoption, a process which may take some time.

The ILO has taken an active role in the deliberations of the Working Group, and supports the adoption of this Declaration. When adopted, the Declaration should complement the provisions of Convention No. 169. It should in no case fall below the level of that instrument or contradict its provisions, or it will risk undermining the effectiveness of the ILO Convention and calling into question the standards it contains. As a declaration it will, of course, have no binding effect though it will have persuasive power. The ILO will continue to work with the United Nations in its further consideration of the draft Declaration to ensure that these objectives are met, both in the Working Group and when it is considered by governmental instances at the higher levels of the United Nations.

The consideration now being given to the adoption by the OAS of a future legal instrument on indigenous peoples is also being followed closely by the ILO. This regional instrument, if adopted, should also meet at least the standards of the existing ILO Convention, while adding a regional dimension that may be needed for Latin America and the Caribbean.

Finally, it should be mentioned that indigenous and tribal peoples are also covered by other ILO Conventions of general application, so that questions concerning them are often raised in supervising the application of, e.g., the Forced Labour Convention, 1930 (No. 29), as they are raised under various provisions of the two International Covenants adopted by the General Assembly.

3. Supervision of implementation of the Conventions

The ILO has a sophisticated supervisory machinery to examine the implementation by the countries concerned of the Conventions they have ratified, with a view to identifying possible difficulties and constraints, and to devising suitable solutions. This supervisory machinery, which applies to all Conventions alike, has been explained in detail elsewhere.

Steps have been taken recently to enhance the effectiveness of ILO's supervisory activities for these Conventions. Agreements have been in place for many years for collaboration with the UN and several specialised agencies on matters of common interest related to the application of ILO Conventions. More recently, within the framework of the last inter-agency consultation on operational activities and technical cooperation concerning indigenous and tribal peoples (Geneva, 6 August 1992) it was agreed that agencies should strengthen their support to ILO's supervisory procedures in connection with Conventions Nos. 107 and 169 by providing any data and information on their activities directed at or involving indigenous and tribal peoples in selected countries.

Discussions have also been held with a number of indigenous organisations and trade unions to stimulate dialogue and exchange of information regarding, among other things, issues which are relevant to the implementation of the ILO standards on the subject. Given the tripartite nature of the ILO, trade unions represent a very important vehicle for indigenous and tribal peoples to channel information and request for assistance to the ILO and the international community.

B. Technical cooperation

The objectives and strategies of ILO's development assistance to indigenous and tribal peoples have changed over the years, in harmony with its standards.

1. Promotional activities for legislative reform and legal education

To combat the legal dimension of disadvantage and discrimination against indigenous and tribal peoples, the ILO carries out focusing on (a) the amendment of discriminatory policies and legislation; (b) the improvement of the enforcement of national and international law; and (c) education and awareness-raising among indigenous and tribal peoples.

For people who suffer from miserable and precarious living conditions, law is most likely to be seen as a means of oppression rather than an instrument of social transformation. This is the result of a number of factors: the existence of laws which actually inhibit access to and contribute to the maintenance of oppressive structures and practices; the prejudicial enforcement of law which should protect indigenous and tribal peoples; and the ignorance by these peoples of the constraints and possibilities of the law and the relationship between law and socio-economic development.

The basis of the ILO's activity is the promotion of Conventions Nos. 107 and 169, and of other standards which are relevant to indigenous and tribal peoples, in particular the Rural Workers' Organisations Convention, 1975 (No. 141).

At the request of indigenous organisations or of governments, the ILO organizes workshops and seminars to explain the objectives and content of ILO's standards on the subject and their implications for national law. In most cases efforts are made to bring together policy-makers, indigenous representatives, workers' and employers' organisations, and other key sectors. These consultations at the national level can be an important factor in reviewing national policy towards indigenous and tribal peoples, and sometimes lead to the ratification of Convention No. 169. In other cases, such consultations have assisted governments and non-governmental organizations to examine the consequences of having ratified the Convention and examining together how to implement it. The workshops or seminars are complemented with follow-up activities whose nature and composition may vary according to the local circumstances and needs and potentials which have emerged.

2. Other development assistance

For two decades, beginning in 1952, the ILO led the Andean Indian Programme, a multi-disciplinary development effort for indigenous peoples in Latin America which involved a number of UN system organisations.

During the 1970s and the 1980s it become apparent that development had to be focused on people and their empowerment. This placed a strong emphasis on sociological and cultural factors, including social relations of production, leadership systems, traditional economic and social institutions, gender issues, and procedures and mechanisms for the solution of social conflicts. Traditional culture and beliefs were no longer seen as irrelevant or as an obstacle to the development process. On the contrary, culture was meant to supply meaning and orientation to the life and activities of any society.

As concerns indigenous and tribal peoples, these concepts were defined and crystallized by the adoption at the 1989 session of the International Labour Conference of a resolution on ILO's action concerning indigenous and tribal peoples, at the same time that Convention No. 169 was adopted.

A programme on indigenous and tribal peoples has been established as a consequence, highlighting the importance attached by the ILO to the subject and the need for a more coherent and integrated approach and strategy towards these peoples.

Through this programme, the ILO seeks to design and implement policies and effective approaches to promote employment and social protection for indigenous and tribal peoples, with respect for their diversity and their wishes; and to contribute to discussions within the UN system and the donor community with a view to reaching a consensus regarding priority issues to be addressed, and criteria and principles for action.

The technical assistance provided by the ILO, sometimes in cooperation with other international organizations, has covered a number of economic development activities with a particular focus on the cultural specificity of indigenous and tribal peoples. Projects undertaken have included institution-building in indigenous communities, with a particular orientation towards helping communities develop organizational and negotiating skills. Indigenous crafts and other economic activity have been examined and promoted for the development of income-generating activity. The ILO has also contributed to the reform of national law and administration of indigenous affairs, leading to the establishment of new relations between governments and indigenous and tribal peoples.

C. Cooperation with other international organizations and development partners

If the ILO has a special place in international efforts for indigenous and tribal peoples, this is based in part on historical priority and in part on its capacity for adopting and supervising the implementation of international standards. It is also, however, based on its mandate of promoting social justice and of dealing with all forms of economically-productive activity. In addition, it reflects the ILO's commitment to linking its standards and technical cooperation mandates (dealt with in some detail in other documents before the World Conference).

Since the establishment of the United Nations system, the ILO has worked closely with other parts of the system to protect these peoples. It looks forward to extending this cooperation in several directions. The ILO has called a series of inter-agency meetings since 1990 at the global level and at the national and regional levels. (The Centre for Human Rights called the most recent such meeting.) It also has worked with the UN Working Group on Indigenous Populations since that Group was created in 1981, and has contributed to the drafting of the Universal Declaration now being examined.

Two more recent events attest to the ILO's commitment in this area. First, the ILO was invited by the General Assembly to share in the coordination of the International Year of the World's Indigenous People

(1993), along with the Centre for Human Rights. Second, the ILO has taken a very active role in the creation of the Regional Fund for Indigenous Development, established by an agreement concluded among a number of Latin American States in 1992, and Convention No. 169 has served as the inspiration for much of the administrative framework of that Fund.

If the UN system, and other international organizations and development agencies working in the area, wish to take the most effective action, however, it will be necessary that they work more closely together in the future than they have so far. International standards must not be drafted without taking explicitly into account the standards that already exist, adopted by other international organizations for the same purpose. Different organizations will have to adopt common definitions and approaches to similar problems, including the definition of those covered and the objectives of international action concerning them. Consideration has already been given to examining common development guidelines for this purpose, but this will not be a simple task and it is far from complete.

It will be necessary to examine, in the context of the International Year for the World's Indigenous People, whether it is possible to increase the presence of indigenous and tribal peoples in the activities of the international organizations, and how this can best be done. It would be appropriate for such a reflection to take place also as a part of the results from the World Conference deliberations, especially given the special place of indigenous and tribal peoples among the neediest of the world's peoples, but who have begun to define themselves as a truly international constituency that extends around the world.

Annex II

The involvement of the ILO in Human Rights Concerns related to the Administration of Justice

The ILO's work contributes in several respects to the discussion on human rights and the administration of justice.

First of all is the principle that human rights are unitary. As the ILO's supervisory bodies have said many times, the human rights protected by the ILO cannot be adequately implemented in a climate which does not respect the rule of law and ensure the protection of human rights generally.

In this context, the independence and impartiality of the judicial authorities is primordial. One basic provision which contributes to this may be found in the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), which has been ratified by more than 100 countries. This Convention prohibits any discrimination, exclusion or preference based on race, colour, sex, religion, political opinion and national or social origin. It applies first of all to employment under the direct control of a governmental authority, and therefore necessarily to the recruitment and appointment of judicial personnel and of others involved in the administration of justice. The ILO Committee of Experts has indeed explicitly held that this instrument applies to the appointment of judges.

The applicability of this principle is evident: if the judicial authorities are chosen on the basis of a discriminatory approach - or in the most extreme case are selected only from one ethnic group or shade of political opinion - the effect on the administration of justice in a pluralistic culture can be disastrous.

The same considerations apply, of course, to lawyers. There are unfortunately many cases in which judges and lawyers who do not share the opinions of the dominant political power are subject to dismissal and even arrest, with consequences for the administration of justice which are not difficult to imagine.

Apart from protection of the personnel involved in the administration of justice, more general principles laid down in ILO standards are also relevant to the administration of justice. The two ILO forced labour Conventions cover one aspect of this question. The Forced Labour Convention, 1930 (No. 29), ratified by most States, prohibits all forced or compulsory labour, but provides that this shall not include ".. any work of service carried out ... as a consequence of a conviction in a court of law". This means that forced labour may not be imposed on detainees, accused persons and the like. This corresponds to the presumption of innocence before conviction that is contained in the International Covenant on Civil and Political Rights and most national legislation.

Another aspect of the question under the same Convention is that compulsory labour by convicted prisoners is allowed, provided that it is carried out under the supervision of the public authorities and does not include hiring out prisoners to private individuals, companies or associations. This is a particularly difficult problem. The real problem in practice might be said to consist not so much of the hiring out as the conditions under which these persons are often obliged to work. This can, in extreme cases, amount almost to slave labour, and prisoners may be made to work under conditions that would be unacceptable for any other workers: little or no compensation, very long hours, unacceptable conditions of safety and health. There may also be an element of corruption here. It should be remembered that prisoners have the same human rights as everyone else, except for those which may have been explicitly removed as a consequence of their conviction.

The Abolition of Forced Labour Convention, 1957 (No. 105) covers another aspect of this question. While Convention No. 29 prohibits forced labour except under defined conditions, Convention No. 105 prohibits its imposition for defined reasons. It refines the permission given in Convention No. 29 for convicted prisoners to work, by defining certain offenses for which forced labour is not allowed. These include forced or compulsory labour imposed as a means of political coercion of education or as a punishment for holding or expressing political views opposed to those of the established political, economic or social system; as a means of labour discipline; as a punishment for having participated in strikes; and as a means of racial, social, national or religious discrimination.

The problem here consists of the criminalisation of "political" offenses in many countries. Simply put, in many countries those who criticise the President are not political opponents, they are criminals. Or those who go on strike when the government does not want them to - a strongly protected right of workers in most circumstances - are not seen as trade unionists protecting the rights of their colleagues but again as criminals. And as criminals, once convicted they are subject to the same regime as all prisoners.

The final aspect of labour and the administration of justice is found in the field of labour administration. The administration of justice is not confined to criminal law. It extends also to drafting and implementing the laws and regulations governing the rights of workers. It includes such obvious human rights subjects as the working of human rights commissions which are established to prevent or correct discrimination in employment, through such work-a-day matters as ensuring that workers receive the wages to which they are entitled, that they work in safe and healthy conditions, or that they are free from being made to work as children. And of course, it covers the fundamental right of organisation, the rights of employers and of workers to join in organisations of their choosing to defend their rights. These are all rights which are protected under the International Covenant on Economic, Social and Cultural Rights, in some cases also by the International Covenant on Civil and Political Rights, and by a large number of ILO Conventions.

Here again, the administration of justice and the correct working of the courts and legal systems plays a major role in assuring the protection of these human rights. Whether through the regular courts or through special tribunals, all the factors cited above for the protection of the ability of the judiciary to function under proper conditions are equally relevant here.

Annex III

Child labour: the ILO contribution

Child labour has been one of the ILO's constant preoccupations since its founding in 1919. At its first session, the International Labour Conference adopted the first in a long series of international Conventions on the subject, reflecting concerns expressed in the Constitution. In recent years, ILO standard-setting and supervision has focused on one side of the problems, while its programme of technical cooperation and technical assistance has focused on another.

I. ILO standards

The most recent ILO Convention on the subject is the Minimum Age Convention, 1973 (No. 138). It revises a number of earlier Conventions on the same subject, which are of more limited application or set lower standards3[1], and is in turn complemented by many other ILO Conventions which contain provisions on minimum age in specialized areas or deal with other aspects of work for young people. Almost every member State of the ILO has ratified one or more of these if they have not ratified Convention No. 138. The basic requirements of Convention No. 138 may be summarised as follows.

The minimum age for employment or work (i.e., not only work within an employment relationship) shall be not less than 15 years, or the end of compulsory schooling, whichever is higher. In developing countries, the minimum age may be declared at 14 years. Light work may be performed from the age of 13 years (or 12 if the basic minimum is set at 14), if it is unlikely to harm the child's health or development, and if it will not prejudice school or vocational training. A minimum age of 18 years shall be set for employment or work likely to jeopardise the health, safety or morals of a young person; but it may be set at 16 if health, safety and morals are fully protected and adequate specific instruction or vocational training has been provided. The competent authority must define the dangerous work referred to. Work done by children in the context of properly-supervised vocational training is excluded. It is also possible to exclude various categories of employment or sectors of the economy, and to limit the application of the Convention to specified areas of the country, but regular information has to be provided on the situation in sectors or areas thus excluded, and the exclusions and exceptions may be withdrawn at any time.[2]

As stated above, Convention No. 138 revised a number of earlier minimum age Conventions. This means that a country which ratifies Convention No. 138 thereby automatically denounces any of the earlier Conventions it has ratified on the same subject - a replacement

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[1]For an explanation of the ILO's system for revising standards, see UN document A/CONF.157/PC/6/Add. 3.

[2]No reservations are possible when ratifying ILO Conventions, except those specifically provided for in the Conventions themselves. See the submission on this subject under objective 3 of A/CONF.157/PC/20.

ratification, in fact. These earlier Conventions deal with industrial employment (Conventions Nos. 5 of 1919 and 59 of 1937), non-industrial employment (Nos. 33 of 1932 and 60 of 1937), agriculture (No. 10 of 1921), merchant shipping (Nos. 7 of 1920 and 58 of 1936), commercial fishing (No. 112 of 1959), and underground work (No. 123 of 1965). Most existing ratifications concern these Conventions. Finally, the Social Policy (Basic Aims and Standards) Convention, 1962 (No. 117) prohibits the employment of anyone below the age of compulsory schooling during the hours when school is in session.

In addition to instruments on minimum age for employment or work, a number of ILO Conventions also prescribe the conditions under which young people are allowed to work. It may be noted in this connected that Paragraph 2(b) of Article 32 the Convention on the Rights of the Child requires "appropriate regulation of the hours and conditions of employment" of young persons.

Hours of work for young workers are regulated by three ILO Conventions: Night Work of Young Persons (Industry), 1919 (No. 6), Night Work of Young Persons (Industry) (Revised), 1948 (No. 90), and Night Work of Young Persons (Non-Industrial Occupations), 1946 (No. 79). All these Conventions prohibit night work for young persons below 18 years, and provide detailed indications of what shall be considered to be night. It should also be taken into account that the requirement of Convention No. 138 to limit light work for young people to situations that will not harm their health and their schooling, implies that national authorities should limit hours of work for them specifically.

As concerns conditions of employment, the ILO has been even more prolific in its standard-setting. In addition to the basic prescriptions in the minimum age Conventions concerning work likely to jeopardise the health, safety and morals of young workers, the following Conventions prohibit work in particular situations for young persons below the age of 18, sometimes with lower ages permissible in defined circumstances: the White Lead (Painting) Convention, 1921 (No. 13), the Radiation Protection Convention, 1960 (No. 115), the Maximum Weight Convention, 1967 (No. 127), the Benzene Convention, 1971 (No. 136), and the Occupational Safety and Health (Dock Work) Convention, 1979 (No. 152).

Another series of Conventions requires that young persons under 18 years old not be admitted to employment unless found fit for the work by a thorough medical examination: at sea (No. 16 of 1921), in industry (No. 77 of 1946), in non-industrial occupations (No. 78 of 1946) and in underground work (No. 124 of 1965).

Finally, paragraph 2(c) of article 32 of the Convention on the Rights of the Child requires governments to provide "appropriate penalties or other sanctions to ensure the effective enforcement of the present article". Most ILO Conventions include similar language, and the supervisory bodies of the ILO ask for regular information on the practical measures taken to enforce the obligations in these Conventions. In

addition, the Labour Inspection Convention, 1947 (No. 81) and the Labour Inspection (Agriculture) Convention, 1969 (No. 129) require that the labour inspectorate in each ratifying country undertake effective measures to enforce national labour legislation, and to gather and publish statistics on their work. Unfortunately, neither Convention applies to the non-industrial and non-agricultural sector of the economy, though of course most national labour inspectorates do cover the entire economy (the possibility of revising these Conventions to expand their coverage is being examined). It should also be recalled that employers' and workers' organisations have the right to submit their own comments on the implementation of Conventions in ratifying States, though in practice it is very rare that they comment on the application of child labour Conventions.

Most ILO Conventions are of general application, apart from those which apply to particular groups. Mention should be made, in this connection, of the ILO's two fundamental Conventions on forced or compulsory labour: the Forced Labour Convention, 1930 (No. 29) and the Abolition of Forced Labour Convention, 1957 (No. 105). Forced labour is a drastic case of economic exploitation and, even though these instruments do not refer to children explicitly, they have been invoked frequently by the ILO's supervisory bodies to criticise forced child labour. It is often under these instruments that the ILO Committee of Experts on the Application of Conventions and Recommendations examines cases of bonded child labour, sale of child and other abuses, especially if the country concerned has not ratified instruments on minimum age for employment or work.

II. Supervision of standards and synergy with technical cooperation

A detailed explanation of the ILO's supervisory machinery and of its relation to technical cooperation can be found in other documents before the World Conference. It is sufficient to remark here that the ILO follows closely the application both in law and in practice of the Conventions ratified by member States, and that this has led to many improvements in the situation in a number of countries.

However, it has long been clear that law is not sufficient in itself to combat child labour, nor even to correct its worst abuses. This is true for many reasons, including the fact that most child labour takes place illegally, and outside the formal legal system. Much child labour takes place in the "informal sector", and the roots of the phenomenon lie in causes which law cannot reach - poverty, deprivation and exclusion.

The ILO's programme of technical cooperation and assistance is based on the same ideals that motivate its standards, and is dedicated to achieving the objectives that those standards embody. This aspect, of linking technical cooperation and assistance to the implementation of international labour standards, gained particular force when it was increasingly recognised that more direct action was needed. From the early 1980s the ILO therefore began supplementing its standard-setting work with research, information dissemination and direct technical assistance to help countries to understand the nature, extent and consequences of child labour, as well as to formulate and implement policies and programmes.

During this period much was accomplished. Out of its regular budget, the ILO produced numerous publications designed to heighten general awareness regarding child labour, and to promote understanding of specific aspects of the problem. It conducted regional seminars in Asia, Latin America and Africa as well as national seminars in several countries (e.g. Kenya, Tanzania, Zimbabwe). A regional seminar on Children in Bondage has taken place in Asia, and regional seminars on child labour in Central American countries and in Arab States are planned. The objective of these meetings is to raise concern and awareness among policy-makers about child labour, and to encourage them to develop national plans of action for addressing the problem. Additionally, with external financing, the ILO undertook a two-year pilot project in the Philippines to develop and test strategies for withdrawing children from hazardous occupations.

As awareness of the problem grew, by the end of the decade the ILO faced increasing calls to expand its campaign against child labour, nationally and internationally. Moreover the work of the Office had demonstrated that it was timely to launch a comprehensive and coherent effort on a global scale.

As a response, the Director-General selected child labour as a theme for Office-wide focus in 1992-93. Through the Interdepartmental Project on Child Labour the foundations are being laid to establish a broader and more concentrated programme of action by the ILO. This internal initiative was quickly followed by another significant development. The announcement in September 1990 of a substantial grant from the German Government, with the expectation that this will be followed by additional donor support, has enabled the ILO, for the first time, to mount a sustain and vigorous world-wide campaign through its International Programme on the Elimination of Child Labour (IPEC).

These two developments - internally and externally generated - are now forged into a comprehensive and integrated programme of action. The long-term objective of the ILO remains the effective abolition of child labour. This objective, however, cannot be attained immediately; it requires progressive improvements in the social and economic conditions in many countries. The 1979 International Labour Conference Resolution on Child Labour, therefore, called for social and legislative action for the progressive elimination of child labour and, during the transitional period, the protection of working children.

The immediate objectives of ILO's programme therefore are:

(a) to enhance the capability of ILO constituents and NGOs tc design, implement and evaluate policies and programmes aimed at the elimination of child labour and the protection of working children;

(b) to determine the comparative strengths and weaknesses of various types of intervention at the local, community and national levels as models for replication and adaptation; and

(c) to establish mechanisms at both the national and international level capable of generating and supporting intensive public awareness and social mobilization campaigns to combat child labour.

The ILO, recognising the gravity and size of the problem on the one hand, and the limited resources on the other, gives priority in its operational strategy to those groups typically at risk in most developing countries:

- children working under hazardous conditions whether in factories, cottage industries or agriculture;

- children working under forced labour conditions, whether in agriculture, industry or service industries;

- children that are especially vulnerable, e.g. those under 12 or 13 years of age and girls; and

- children living and working on the street without family support.

The complexity of child labour, and the variety of national situations, necessarily calls for flexibility and selectivity and the capacity to work at different levels with a range of interventions. The ILO programme reflects these realities, but recognises too that the ultimate responsibility for the protection of working children and the elimination of child labour lies with governments, and that only a broad alliance of workers' and employers' organisations, NGOs, et al., will ensure that the issue is placed on the public agenda and kept there.

This commitment to supporting national level action is now beginning to be expressed through the development of models of approach for a series of reinforcing activities.

Policy and programme design

A model for the development of national programmes of action has now been developed on the basis of ILO experience in a number of countries. The model involves three steps, the first being research and preparation of a national report on the situation of child labour, secondly, the organisation of a national seminar to allow an exchange of views on the issue, and finally the drafting and publication of a national programme of action. In formulating these national programmes of action, participants designate the responsible agencies for the various measures proposed and, in some cases, suggest a target time-table framework to bring a sense of urgency to the process. Both this formal approach, and informal discussions between the ILO and national policy-makers, are underway in a number of countries (e.g. Argentina, Senegal and Venezuela).

Institutional development

Rather than trying to provide welfare services to large numbers of children, the ILO seeks instead to promote and/or strengthen institutions which will be capable of carrying on such activities with the local sensitivity and duration needed in order to make a real impact on the problem. Child labour units, for example, are being established in a number of countries to coordinate services among various government departments. Labour inspectorates, NGOs, and workers' and employers' organisations are being trained and provided with materials to make them more effective in the campaign against child labour.

Technical assistance

Following upon successful awareness-raising efforts in Latin America and Asia, increasing requests have been received for in-depth consultations on the child labour problem and for action programmes to demonstrate approaches and to stimulate replication. These action programmes include those aimed at preventing the increase of child labour and the emergence of new problems (e.g., information campaigns directed at parents, children, the community and society at large about the dangers and consequences of child labour); those aimed at protection (such as special skills training, shelters for those with no family ties or who are vulnerable to abuse, access to primary education), and those directed at providing basic welfare services such as nutrition and health. Many programmes obviously combine different features and cover different kinds of activities. Action programmes are underway in a number of countries such as Brazil, India, Indonesia, Kenya, Thailand and Turkey which are the initial target countries.

Information collection, research and dissemination

Statistics are powerful tools for influencing public opinion and essential for making accurate programme decisions. The Office is now developing new methods for surveying the economically active child population and is testing them in several countries (e.g. Brazil, India, Indonesia, Mexico and Senegal), prior to their dissemination to national bodies. The Office is also examining in greater depth factors which have acted as barriers to effective action against child labour, for example, the perceived economic cost of minimum age legislation; the difficulties of enforcement of legislation; and researching those interventions which have been successful in reducing child labour, such as strategies for removing children from hazardous work and the use of nonformal education methods. In addition, the Office is examining the effect on children of work in selected occupations: construction, domestic service, and entertainment. These studies will contribute greatly to the understanding of the scope, distribution, dynamics, and consequences of child labour, and the data accruing will form part of an international data base.

Advocacy and awareness raising

A better informed public, both in industrial and developing countries, is one of the key elements in combating child labour. The ILO has therefore set as a priority, the launching of a worldwide campaign against child labour. The campaign includes the production of materials (posters, videos, leaflets) as well as the mobilization of international agencies, NGOs, workers' and employers' groups, children themselves, etc., in promoting child labour awareness. Particularly effective have been national and regional level meetings of policy-makers and interested groups to develop campaigns, such as an Asian regional seminar on child bonded labour.

The ILO remains, within the international community, a promoter of basic principles and a catalyst for action and in responding to its mandate to promote social justice and to protect children, it will continue to seek the full collaboration of, including joint work with, other UN agencies and international NGOs, so as to coordinate better the international fight against child labour.

Annex IV

ILO action to ensure coherence between standards and technical cooperation for the furtherance of human rights

Paragraph 6 of the UN document on the studies for the World Conference includes the questions of proposals on how the international community can make progress towards enhancing development cooperation in order to further human rights.

The ILO has recently been acquiring considerable practical experience precisely in this regard, which may be useful for the deliberations in the World Conference. A detailed discussion was held on the subject in March 1992 session of the Governing Body of the International Labour Office, on the basis of a document put beforre the Governing Body by the Director-General[1].

A. Basic principles of synergy between technical cooperation and standards

This action is carried out in the ILO under the general concept of "Active Partnership", and ensures that the technical cooperation activities of the Organisation provide support for the promotion and implementation of international labour standards, with particular emphasis on those dealing with fundamental human rights. Measures have also been taken to ensure that no ILO technical cooperation project is in conflict with fundamental rights or with the provisions of ILO Conventions ratified by the country concerned.

It has been made clear in the ILO's work on the subject that, as the above-mentioned document stated, "conditionality is not the appropriate means to enable technical cooperation to play a more active role in achieving the Organisation's objectives."[2]

Standards and technical cooperation are the ILO's two principal means of action, and both are essential to attaining the ILO's constitutional objective of promoting social justice and progress. It is therefore important to ensure that both activities are directed towards these goals, and that all technical cooperation undertaken is consistent with the principles contained in ILO standards. It was noted in the mid-1980s, however, that a certain distance had grown up between these means of action, and measures were begun at that time to correct the situation which are still being developed today. This action takes various forms.

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[1] ILO document GB.252/15/1.

[2] GB.251/15/1, para.31.

Some technical cooperation projects are directly related to the implementation of specific standards, and in these cases it is both indispensable and conceptually easy to link the two means of action. A project that is designed to assist a country to comply with the comments of the ILO's supervisory bodies on the application of a particular Convention, will be based directly on the provisions of that Convention; for instance, technical cooperation provided to the Dominican Republic and Haiti following the examination of a complaint concerning the implementation of the Forced Labour Convention, 1930 (No.29) took this approach.

In other case, operational activities which do not directly have a standards-related objective should also be coherent with the relevant international labour standards. For instance, projects on employment promotion must reflect the provisions of the Employment Policy Convention, 1964 (No.122), even when they are not based directly on that instrument. Vocational training projects naturally promote the objectives of the Human Resources Development Convention, 1975, (No.142), and should take close account of, e.g., the Safety and Health in Construction Convention, 1988 component on safety and health on a systematic basis.

Another aspect of this question is to ensure that technical cooperation projects are carried out in a manner that does not conflict with fundamental principles guiding the ILO's action, particularly as concerns human rights. All projects must, for example, be entirely free from forced labour (the Forced Labour Convention, 1930 (No.29)), from discrimination (the Discrimination (Employment and Occupation) Convention, 1958 (No.111), from prejudice to freedom of association (the Freedom of Association and Protection of the Right to Organise Convention, 1947 (No. 87)), and from child labour (the Minimum Age Convention, 1973 (No.138)). They must in addition apply the principle of tripartite consultation which lies at the heart of ILO structures (The Tripartite Consultation (Activities of the International Labour Organisation) Recommendation, 1976 (No.152).

This last principle may appear self-evident, but it is sometimes difficult to ensure that the project is both conceived and executed in a way which does not conflict with international human rights standards, especially when these standards are not fully inculcated into the usages of the country in which the project is taking place. For this reason the ILO has been in touch with several national government development agencies which are examining the same question, in order to share information and experience in this connection.

B. Measures taken to ensure the application of the principle

The first of these measures is a decentralisation of action to the developing regions in which the ILO works, to take place beginning in early 1993 and to take full effect with the implementation of the 1994-1995 Programme and Budget of the ILO. This action will include the establishment in the developing regions of "multi-disciplinary teams", each of which will include a specialist in ILO standards and in labour and social security law. Their mission will be to act in partnership with ILO constituents with a view to ensuring the coherence of ILO action in their

regions, including of course coherence between standards and technical cooperation.

The second measure is to improve the knowledge of the ILO's own staff and technical co-operation (both national and international) of the contents of international labour standards and of how they can be translated into practical action. A spectrum of activities to provide training and assistance to the ILO's technical departments, field offices and constituents, in taking standards into account in the conception and execution of standards has been undertaken in pursuance of this objective. Officials of several governments' development agencies, and of other international organisations, have taken part in these training efforts.

The ILO is also taking measures to make ILO standards better known and to promote an understanding of their scope and requirements in institutions and organisations involved in ILO technical cooperation. This activity covers, inter alia, government counterparts, representatives of employers' and workers' organisations in developing countries, donors (particularly UNDP, UNFPA and multi-bilateral donors), academics, legislators and magistrates.

C. Suggestion to the World Conference

The World Conference might wish to explore how the United Nations system as a whole, and in particular the financial institutions of the system and those devoted to promoting economic development, can ensure that their development activities and the implementation of structural adjustment programmes, are used for the promotion and implementation of the human rights instruments adopted by the General Assembly and by the specialised agencies - such as the ILO - and other parts of the system. Various measures could be envisaged in this connection, beginning with educational and training activities for various parts of the United Nations system, and extending to the kinds of measures which have been taken by the ILO.

Annex V

Relationship between human rights, development and democracy

The Director-General of the ILO chose as the theme of his Report to the 79th Session of the International Labour Conference, 1992, "Democratisation and the ILO". In this Report, he analysed the movement towards greater democracy that is taking place in many countries throughout the world, together with the economic reforms that almost invariably accompany the process of democratisation and the significance of these trends for the enjoyment of human rights, for economic and social progress, for the roles of the State and of employers' and workers' organisations, and for the activities of the ILO in all these areas. A copy of the Report of the Director-General is available to interested delegates.

This Report was the subject of a discussion at the Conference in which 299 delegates took part. The main points made in this discussion are summarised below.

The almost universal trend towards democratisation was acclaimed by delegates from all regions and from all three groups (governments, employers and workers). Moreover, there was a striking convergence of views on the true meaning of "democracy", a word which, as some speakers pointed out, has been greatly misused in the past. Although it was widely recognised that there was no single model of a democratic society, that it was for each country to develop its institutions in the light of its own realities, culture and traditions, and although some insisted that no model should be imposed on their countries, it was emphasised by the large majority of speakers that there were certain basic principles that had to be respected in any country which claimed to be democratic: the primacy of law; individual and collective freedoms guaranteed by law; the equality of all before the law; recognition of and respect for the diversity of opinions, creeds and cultures; and the full and free participation of all citizens in the political, economic and social life of their country. It was also widely recognised that these principles had to be applied in the world of work, and that, for democracy to have a real meaning, political freedoms had to be accompanied by certain economic and social rights: freedom of enterprise and commerce; freedom of association and collective bargaining; freedom to choose an employment; equality of opportunity and treatment in employment; and the right of employers' and workers' organisations to participate freely in a tripartite dialogue with governments in determining and implementing economic and social policy which, as many speakers pointed out, was the foundation of all the work of the ILO.

Although the discussion showed that there was a broad consensus on these basic principles, and a widespread determination to apply them in practice, concern was expressed by virtually all participants at the fragility of

democracy, at the new threats which confronted it, and at the huge gap which existed between these principles and the harsh reality of the world of labour.

Concern was expressed by many delegates - particularly by Workers' delegates - at the lack of respect for human rights, particularly trade union rights, even in countries with long democratic traditions. They denounced with some vehemence the complacency and hypocrisy of some governments in this respect, and drew attention to the new threats to workers' and trade union rights which came not only from dictatorships but also from a blind faith in the virtues of unfettered free markets. They called on the ILO to maintain and reinforce its supervisory machinery to ensure respect for these fundamental rights.

Attention was also drawn by many speakers to the growing threat to democracy and peace that was caused by intolerance, xenophobia, racial, ethnic, nationalist and religious conflicts. Some speakers referred in this connection to discrimination and acts of violence against migrant workers and their families, while others expressed their dismay at the dramatic proportions that social, ethnic and religious conflicts were assuming in some countries. There were numerous calls for the ILO to strengthen its action to combat discrimination at the workplace and in access to employment and training.

A major object of concern in the discussion was the economic context in which the process of democratisation was taking place. Speakers from all regions and all groups expressed their fears that democracy was threatened by economic stagnation and recession, by rising unemployment, declining standards of living, inflation and increased poverty. Democracy, it was said by many speakers, was a meaningless word in such conditions, and would be short-lived if it did not bring some benefit to the masses of the population.

Many speakers stressed the inevitable need for far-reaching economic reforms, involving a liberalisation of the economy and greater reliance on market forces, in order to lay the basis for future economic growth. It was stressed - particularly by many Governments' and Employers' delegates - that such reforms, involving a reduction of State intervention in the economy and greater emphasis on free enterprise and private initiatives, were an essential prerequisite for democracy and for economic and social progress. But it was emphasised by many delegates that economic reforms and the transition to a market economy implied huge social costs, and called for sacrifices by all sectors of society. Workers' delegates in particular were concerned that the burden of such reforms fell most heavily on workers and on the most vulnerable sections of society. The rigorous fiscal and monetary policies advocated by the International Monetary Fund and the World Bank in the framework of their structural adjustment programmes were severely criticised by some delegates; they called for greater ILO involvement and greater respect for ILO standards in the structural adjustment programmes carried out by those organisations.

Emphasis was placed by many speakers from all three groups on the need for sufficient employment to be created and for measures to facilitate the reemployment of workers who had lost their jobs in the process of economic reform; for a strengthening of education and training programmes; and for adequate measures of social protection particularly for the most vulnerable groups who were particularly severely affected by such reforms. Numerous calls were made for ILO assistance in these and related fields. Many speakers also called for a much greater effort of international solidarity to assist

countries who were facing the most severe economic and social difficulties.

While many speakers felt that greater reliance on the market was essential for a revitalisation of economic growth, there were significant differences of opinion on how far the free play of market forces should be allowed to go. Many Workers' delegates insisted on the dangers of excessive reliance on the market and of a return to unrestrained "wild capitalism" which would be quite contrary to the ILO's principles. They considered that State intervention was necessary not only in order to provide the macro-economic and regulatory framework for economic growth and stability, but also to ensure that growth was achieved in a socially just way through an equitable distribution of income and wealth, and through adequate protection for workers in line with ILO standards. They insisted that the ILO's standard-setting activities should be continued and that its supervisory machinery for ensuring the application of its standards should be strengthened. Other delegates, particularly among the employers and a number of governments, warned against excessive State intervention in the workings of the market which would discourage the creation and growth of enterprises, and thus the growth of employment. Several of these speakers considered that the ILO should slow down its standard-setting work and reassess and revise some of its existing standards which implied an excessively centralist and interventionist approach, and some of which were too detailed and too complex.

There was, however, widespread agreement on the need to promote and reinforce the tripartite dialogue between the government and free and independent organisations of employers and workers in each country, if these problems were to be tackled effectively and if the differences of opinion among social groups were to be resolved in the general interests of society. Several speakers emphasised that tripartite negotiation and co-operation were essential to the functioning of a democratic State and to sustained economic and social progress; and that it was only if the social partners were associated with economic reforms and policies, and understood the need for them, that they could be expected to accept the efforts and the sacrifices required of them. However, it was recognised that in order for tripartism to function effectively, free and truly representative organisations of employers and workers had to be built up, since in many countries such organisations either did not exist or were subjected to State control and interference. There also had to be a willingness on the part of the State to take account of the views of the different parties, and a willingness on the part of all concerned to enter into negotiations for the common good, rather than engage in a sterile confrontation. While recognising that it was for each country to develop its own forms and machinery for tripartite negotiation and consultation, speakers from all three groups emphasised that the promotion of tripartism in its member States should be among the highest priority tasks of the ILO.

At the conclusion of the discussion of his Report, the Director-General replied to the different points that had been made. He welcomed the very broad consensus that emerged from the debate on the true meaning of democracy, and on the application of the basic principles of democracy to the world of labour. But he also noted the concerns that had been expressed concerning the threats to democracy that were presented on the one hand by the violation of human rights, and on the other by the unfavourable economic situation.

He described the full enjoyment of trade union rights as the cornerstone of any democratic society, but the long list of complaints before the ILO's

Committee on Freedom of Association showed that these rights were far from being respected. The ILO's supervisory machinery needed to continue to function with the same vigilance and objectivity as in the past, since the ILO's credibility as a defender of democratic values depended on it. The ILO should, he said, also strengthen its action to combat discrimination. Its principles in the matter were set out in the Discrimination (Employment and Occupation) Convention, 1958 (No. 111). It needed to promote and monitor these standards, and to assist member States in setting up programmes and machinery to combat this scourge.

Referring to the numerous allusions that had been made in the debate to the unfavourable economic context in which democratisation was taking place, and to the social costs of economic reforms, the Director-General said that the ILO would be failing in its duty if it did not give priority attention to employment promotion and the struggle against poverty in this difficult context. Its action would be guided by five principles.

Firstly, it had to recognise the need for economic reforms which, as many speakers had said, were an essential component of the process of democratisation. The ILO would be rendering no service to its member States or to the workers if it denied the necessity of reforms.

Secondly, the ILO had to ensure that reforms were designed with a view to promoting social justice. This meant in the first place that they led to the creation of jobs. But job creation depended on the existence of profitable enterprises. This required a major effort of education and training, as well as investment and development policies, and a legal framework, that were conducive to the creation of enterprises and jobs. It also required a properly functioning labour market, a network of public and private institutions which promoted enterprise development as well as the mobility, retraining and placement of manpower, and the creation of a basic infrastructure. But social justice also implied that the governments of democratic States could not shirk their responsibility for the welfare of the population, for a just distribution of income and wealth and for adequate social protection, particularly for the most vulnerable groups. The discussion had shown that member States had great expectations of the ILO in all these spheres.

Thirdly, the ILO would insist that the law of the market could not by itself solve all the problems of society. While the market was much more flexible and efficient in the allocation of resource and in the management of enterprises than a central bureaucracy, it would be contrary to all the principles and achievements of the ILO to advocate a return to "wild" capitalism. The withdrawal of the State from certain functions which could be better left to private enterprise and collective bargaining could in no way mean its rejection of any responsibility for economic and social policies and for the promotion of social justice.

Fourthly, the ILO needed to promote the practice of tripartism in its member States. The discussion had shown the importance and value of a tripartite dialogue in any democratic society. Each country had to develop its own forms of tripartism, just as it had to decide on its own forms of democracy. The ILO had to be the catalyst for this process and assist all its constituents in playing their part in the tripartite dialogue.

Fifthly, the ILO had to play its part in mobilising international solidarity to deal with these problems. Its objective must be to ensure that the social aspects and objectives of all efforts to revitalise and reform the world economy were not overlooked. The ILO had to reinforce its dialogue with the International Monetary Fund and the World Bank. As a result of this dialogue there was now a better understanding of the position of all parties. Just as the ILO accepted that economic reforms were necessary, the international financial institutions accepted more readily the need for social objectives and social consequences of adjustment to be taken into account in the design of their programmes. Nevertheless, much remained to be done to make co-operation with these institutions more operational.

In this changing world, the ILO and the principles it embodied were a beacon to guide those responsible for social policy in member States. It was important to safeguard the principles contained in ILO's standards and the machinery it had developed to supervise their application. While the standards themselves and the machinery might be improved, there was a determination on all sides to safeguard and promote the fundamental principles which were the very essence of democracy and the existence of the ILO. These principles had to be put at the centre of all the ILO's activities, and steps were being taken to reinforce the link between standards and ILO technical co-operation.[1]

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[1] See under objective 1, ILO contribution concerning para. 6 of A/CONF.157/PC/20.

Annex VI

Reservations to the ratification of Conventions in ILO practice

Reservations to International Labour Conventions have always been regarded as inadmissable. The inadmissability of reservations is due to various constitutional and procedural elements concerning the drafting, adoption and application of ILO Conventions. First, ILO Conventions are drafted and adopted at the International Labour Conference, a tripartite forum. Unilateral reservations, therefore, would appear to go against the principle of an international instrument adopted by agreement among all three social partners. Secondly, the ILO Constitution provides for a number of special procedures which workers' and employers' organisations may invoke with respect to the application of a Convention. These procedures would lose much of their meaning if a ratifying State were permitted to declare simply limitations with respect to the application of a given Convention. Furthermore, the procedures provided for in individual Conventions for consultation with workers' and employers' organisations on matters left to national discretion would also be weakened if Governments were permitted to make unilateral reservations, thus bypassing the tripartite structure provided for in the ILO Constitution and in the instruments adopted by the Organisation.[1]

Rather than accept reservations to Conventions which have undergone a thorough drafting process involving all the social partners, the approach taken in the ILO has been to facilitate ratification and implementation of its standards by providing for a certain degree of flexibility in its instruments. This principle of flexibility is provided for in the ILO Constitution under article 19(3): "In framing any Convention or Recommendation of general application the Conference shall have due regard to those countries in which climatic conditions, the imperfect development of industrial organisation, or other special circumstances make the industrial conditions substantially different and shall suggest the modifications, if any, which it considers may be required to meet the case of such countries." Flexibility in Conventions permits a realistic response to the needs and special circumstances of member States while maintaining a basic degree of uniformity in the standards to be applied. This flexibility is provided for in various forms.

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[1]Member States may, however, apply Conventions to non-metropolitan territories subject to modifications. Under article 35 of the ILO Constitution, Members undertake to apply ratified Conventions to the non-metropolitan territories for which they are responsible, except where the subject-matter of the Convention is within the self-governing powers of the territory or the Convention is inapplicable owing to the local conditions or subject to such modifications as may be necessary to adapt the Convention to local conditions. To date, there have been been a total of 1,803 declarations concerning the application of ratified Conventions to non-metropolitan territories; 1,132 of these have been made without modifications to the provisions of the Conventions concerned, 72 declarations have been made with modification, 390 decisions have been reserved and in 209 cases the Conventions have been declared inapplicable.

1. Promotional standards

A number of ILO Conventions are drafted as "promotional" Conventions; or there may be promotional provisions in Conventions which otherwise contain obligations for immediate implementation. These Conventions set forth global policy objectives while leaving considerable freedom for the ratifying State to determine the manner in which these objectives should be pursued. Some basic "promotional" Conventions include the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), the Employment Policy Convention, 1964 (No. 122), the Occupational Safety and Health Convention, 1981 (No. 155), the Workers with Family Responsibilities Convention, 1981 (No.156) and the Occupational Health Services Convention, 1985 (No. 161). The language generally used in these Conventions calls for a national policy to give effect to the Convention to be designed "by methods appropriate to national conditions and practice". While governments may exercise discretion in the measures used to achieve the policy objectives, the Conventions do set forth specific elements to be taken into account in policy formulation and prescriptive provisions which must be respected. Thus, the Discrimination (Employment and Occupation) Convention provides generally that ratifying States shall pursue a policy designed to promote equality of opportunity and treatment and then goes on to define clearly what constitutes discrimination and to enumerate certain measures to be taken to ensure implementation of this policy. In this respect, the policy objectives in all ratifying States will be uniform and will include certain aspects considered essential to the pursuance of these goals. The specific measures taken and methods employed are left to the Government's discretion taking into account national conditions and practice, provided that the overall objectives can be pursued in this manner. It is essential to note, however, that while the timing for the full implementation of a promotional Convention may not yet be ripe for a given State, measures must be taken to move towards the fulfillment of the policy objectives. Progress should be noted as time passes, and is regularly assessed by the ILO supervisory bodies.

2. Flexibility clauses

Flexibility clauses are another means used in ILO Conventions to permit varying national approaches to standards. Flexibility clauses come in a variety of forms. Ratifying States may be given an initial option as to the level of protection to be provided. Thus, in the case of the Minimum Age Convention, 1973 (No. 138), each State must indicate the minimum age for admission to employment which must not be less than the age of completion of compulsory schooling and, in any case, shall not be less than 15 years. The Convention adds, however, that a Member whose economy and educational facilities are insufficiently developed may, after consultation with the organisations of employers and workers concerned, initially specify a minimum age of 14 years. If, however, the ratifying State opts for this lower initial age, it must continue to include information in its reports on the continuing validity of the reasons for opting for this lower age and whether there has been any change permitting the Government to raise the minimum age.

Some Conventions contain Articles which permit a certain degree of flexibility for ratifying States concerning the scope of application of the Convention. By way of example, the Working Environment (Air

Pollution, Noise and Vibration) Convention, 1977 (No. 148) takes the basic position that the Convention applies to all branches of economic activity but permits member States to exclude, after consultation with the representative organisations of employers and workers concerned, particular branches of economic activity in respect of which special problems of a substantial nature arise. The Convention further requires member States availing themselves of the exclusion option to state in their reports the position of their law and practice in respect of the branches excluded and the extent to which effect has been given or is proposed to be given to the Convention in respect of such branches. Any exclusions are, therefore, kept regularly under review and consideration is to be given to the possibility of fuller coverage in the future, as national conditions permit.

As some Conventions permit exclusions from the scope of the application, others permit temporary derogations. In such cases, the basic requirement of consultation with the social partners concerned must be met along with other constraints on the right to exempt certain areas or undertakings. Thus, for example, the Benzene Convention, 1971 (No. 136) permits temporary derogations from the requirements of the Convention under conditions and within limits of time to be determined after consultation with the most representative organisations of employers and workers concerned. Subsequent Government reports must indicate the position of the law and practice as regards these derogations and any progress made towards complete application of the terms of the Convention.

For some Conventions, ratifying States may choose among various obligations to be undertaken. This is the case for the Social Security (Minimum Standards) Convention, 1952 (No. 102) which permits member States to choose the types of benefits with respect to which they undertake to fulfil the obligations set out in the Convention. The Working Environment (Air Pollution, Noise and Vibration) Convention also permits ratifying States to determine, after consultation with the representative organisations of workers and employers, whether it accepts the Convention in respect of air pollution, noise, vibration or any combination of the three. When at least one of the obligations is not accepted, the member State must continue to supply information on the position of its law and practice in respect of that particular category of hazard. If national conditions later permit, the member State may then formally accept the obligations of the Convention in respect of a category or categories previously excluded. Other Conventions, in particular the Fee-Charging Employment Agencies Convention (Revised), 1949 (No. 86), permit ratifying States to select between different approaches to the problem - in this, between abolishing employment agencies and regulating them.

Some Conventions provide for such choices to be made on ratification, by a declaration attached to the ratification. Others allow less far-reaching exceptions or exemptions to be taken through a statement submitted with the first report on the Convention's application.

Conventions also often provide member States with a great deal of latitude in determining the methods by which they shall ensure implementation of the relevant standards. Thus, many Conventions provide that each Member shall, by laws or regulations or any other method consistent with national practice and conditions take such steps, including the provision of appropriate penalties, as may be necessary to give effect to the provisions of the Convention.

Finally, general provisions referring to flexibility have been drafted in some Conventions which concern complicated issues which may evoke a variety of relevant responses. Thus, while the Indigenous and Tribal Peoples Convention, 1989 (No. 169) sets forth a series of important rights of the peoples concerned and Government responsibilities, the Convention also provides that "the nature and scope of the measures to be taken to give effect to this Convention shall be determined in a flexible manner, having regard to the conditions characteristic of each country" (Article 34).

3. Force Majeure

The ILO has also had the unique experience of having to review the effect of a major world war on state obligations under Conventions. In 1945, the report of the ILO Conference Committee on the Application of Standards considered that, if any suspensions, derogations, etc. of ratified Conventions had to be authorised, either in cases where they were specifically provided for in Conventions, or in cases of force majeure even where no such provision existed, the Governments concerned were required to consult the responsible employers' and workers' organisations concerned before the suspensions, etc. were put into effect. Furthermore, it was noted in the report that such authorisations should be withdrawn progressively and as rapidly as possible when the abnormal circumstances which necessitated them no longer ceased to exist.

Some ILO Conventions provide for certain exemptions in the case of a state of emergency or war. The Forced Labour Convention, 1930 (No. 29) takes into account the abnormal circumstances in the event of war by providing that the term "forced or compulsory labour" shall not include "any work or service exacted in cases of emergency, that is to say, in the event of war . . . and in general any circumstance that would endanger the existence or the well-being of the whole or part of the population".

A more global approach to the suspension of a Convention's application is taken in the Hours of Work and Rest Periods (Road Transport) Convention, 1939 (No. 67) which provides that the operation of its provisions "may be suspended by the competent authority, but only for the period during which such suspension is strictly indispensable, in case of necessity for meeting the requirements of national safety". Ratifying States must notify the ILO of any suspension in the application of the Convention and the reasons for such suspension as well as the date from which such suspension has been terminated.

The advantage of clearly indicating the possibility of suspension in an international instrument as opposed to accepting broadly-based reservations from member States is that the former permits the Organisation in question to monitor the situation and to recall that efforts must be made as soon as possible to ensure the full implementation of the relevant standards. Provision may also be made for relevant consultation. States are required, by the provisions of the Convention, to inform the Organisation of any suspensive action undertaken and to keep the Organisation informed of further developments.

4. Recommendations

Recommendations drafted to accompany Conventions are also a useful tool for facilitating ratifications of Conventions which would otherwise become overly detailed or controversial. The basic principles with which ratifying States are expected to comply in a uniform manner are set out in Conventions. More detailed measures, or controversial and non-consensual elements, are set out in accompanying Recommendations in order to facilitate compliance by providing non-binding guidelines on possible methods for achieving the general principles. In this way, States are not frightened away from ratification of a Convention out of concern for detailed methods which may not be appropriate to the national context, yet Recommendations can provide guidance for governments concerning possible measures to ensure compliance with the principles set forth in the Conventions.

Concluding remarks

The problem of reservations in international human rights Conventions is one of considerable complexity. The use of reservations may even compromise the basic precepts of the instruments themselves, if other ratifying States do not choose to challenge the reservation. The ILO has bypassed this problem by establishing alternative methods, some of which might be considered for use by the United Nations in one way or another.

It can be seen from the above examples that three essential elements run through the flexible approach to the application of standards. First, the options that can be taken are clearly spelled out in the instruments themselves. Second, most options require prior consultation with the representative organisations of employers and workers concerned. When drafting international standards other than those dealing with labour issues, consideration could be given to providing for some type of consultation with relevant non-governmental organisations or other concerned groups whenever exceptions or limitations to the relevant standards are envisaged. The third element which is indispensable to the objective of uniform standards is the requirement of regular reporting combined with an obligation to review reservations made at ratification. In this way, the development of the national context can be monitored and, when changes permit, all efforts to ensure fuller implementation may be encouraged.

The question remains, of course, of how to implement any changes in practice with respect to existing instruments. The only possibility would seem to be by way of agreement among the parties to these instruments - that is, by the adoption of arrangements for setting conditions of ratification with reservations and for monitoring those reservations, to be done through a protocol or similar mechanism.

The ILO would be glad to contribute to any such discussion.

Annex VII

Streamlining implementation procedures

A detailed description of the ILO methods for supervising the implementation of ratified Conventions is given under objective 5, as well as in the document submitted by the ILO to the first session of the Preparatory Committee (A/CONF.157/PC/6/Add.3). The present contribution will focus on (a) methods for following up the findings and recommendations of supervisory bodies; and (b) responses to alleged or real violations, such as fact-finding, good offices, etc.

I. Methods for following up findings and recommendations

The ILO uses several methods to ensure follow-up to the findings and recommendations of supervisory bodies. First, the regular supervisory mechanisms of the ILO follow up questions they have raised, on a regular and sustained basis. In principle, once the Committee of Experts has raised a question, it continues to follow it in subsequent reporting periods until a satisfactory response has been received. Questions raised by the Committee may continue to be raised over a period of many years until the government concerned provides the information or takes the action necessary. This kind of follow-up is facilitated by the fact that when each government receives the request for reports for the next reporting period, a copy of the outstanding comments by the Committee of Experts on which reports are due that year, is also sent for reply.

Following the adoption of comments by the Committee of Experts, the Committee on the Application of Standards of the International Labour Conference - a tripartite body composed of government, employer and worker representatives - selects a certain number of cases from the report of the Committee of Experts, and invites those governments to meet with it to explain the problems that led to the Committee of Experts' comments. The Conference Committee may in turn request further action, or an earlier report to the Committee of Experts than would otherwise be due.

The procedures of the Committee of Experts and the Conference Committee thus involve regular and continuous supervision of obligations undertaken on ratification, following up any questions raised until they have been resolved. Another procedure is followed by the Committee on Freedom of Association, a tripartite body composed of members of the ILO Governing Body to consider complaints of violations of freedom of association. This Committee has a regular section in its report (which appears three times each year) entitled "Effect given to the recommendations of the Committee and the Governing Body". In addition, when the country concerned in a complaint has ratified an ILO Convention which covers the rights dealt with in the complaint[1], the Committee of Experts follows up the effect given to the findings of the Committee on Freedom of Association in its regular supervisory work.

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[1] Under this procedure, complaints can be filed against a government whether or not it has ratified on ILO Convention on the subject. See A/CONF.157/PC/6/Add.3.

Problems which require follow-up may also arise in the examination of complaints and representations under the ILO's constitutional complaints procedures. In these cases, the examination of the issues concerned is deferred by the Committee of Experts until the committee examining the complaint has completed its work. Once the committee's report has been adopted, the problems raised are given continuous follow-up by the Committee of Experts in its subsequent examination of the application of the Convention by that country, until they are resolved.

All the above comments relate to the formal procedures followed by the ILO's supervisory bodies. The ILO also follows up the comments and findings of these bodies through such methods as direct contacts and other on-the-spot procedures for discussion and for resolving problems. These will be dealt with in the next section of this paper.

However, mention should be made of the system of Regional Advisers on International Labour Standards, which was established in 1980, and now involves full-time or part-time Advisers based in all the developing regions. These ILO officials provide advice to governments, on an informal basis, on meeting their obligations under ratified Conventions, and in application of the ILO Constitution. They visit these countries regularly to assist them in preparing reports and in taking the action necessary to fulfil their reporting and substantive obligations. They may, for example, hold national seminars on the implementation of standards (often with the assistance of ILO headquarters staff), provide training to Ministry officials responsible for relations with the ILO, assist in legislative drafting to a limited degree, and any other such tasks which may be necessary.

The Regional Advisers on Standards are now being incorporated in new Multi-Disciplinary Teams being established in the developing regions, as technical advisers on international labour standards and labour and social security legislation. These advisers will have the same functions as Regional Advisers, but will focus their activity more on providing positive assistance to member States and to the ILO's other constituents in each country, and to participating in an integration of all ILO advice and assistance.

II. Responses to alleged or real violations, such as fact-finding, good offices, etc.

The ILO's regular supervisory mechanisms are not complaints-driven, and rely principally on regular and continuous supervision. However, when violations of Conventions are alleged, or when States otherwise encounter difficulties in meeting their obligations under ILO standards, a variety of actions may be taken. It should be noted that the ILO is extremely flexible in this regard, and that it will work with States to find an appropriate response. All the methods used are based on the principles of dialogue and a common search for the solutions to problems that arise.

Direct contacts were instituted in 1964 to respond to the need for on-the-spot discussion of problems in apply ratified Conventions. Under this procedure, a State may request that a representative of the Director-General visit the country to examine measures to bring the country's law and practice into conformity with a ratified Convention or with the country's obligations under the Constitution. The Director-General's representative is usually a senior official of the International Labour Office, but may also be an independent personality from outside the secretariat in selected cases. Supervision by the Committee of Experts is suspended for one year in such cases, to allow solutions to be found and implemented. At the end of this period, regular supervision is again taken up, and the Committee of Experts and Conference Committee follow progress. Direct contacts take place at the request of governments, but the supervisory bodies may suggest to a government that recourse to this procedure would be beneficial. Recent years have seen the growth of a less formal procedure with informal advisory missions taking place regularly in order to discuss problems and questions at an earlier stage.

Fact-finding takes place within the framework of a procedure established by the ILO in consultation with the Economic and Social Council of the United Nations in 1951, whereby a Fact-Finding and Conciliation Commission may be established to examine complaints of violations of freedom of association. This kind of procedure, unlike other ILO complaints procedures, requires the consent of the government against which the complaint is filed. The most recent instance of a Fact-Finding and Conciliation Commission concerned South Africa, and the report of this mission was submitted to ECOSOC in 1992 after approval within the ILO's own bodies. Commissions of Inquiry established under the complaints procedures also engage in fact-finding, through on-the-spot visits and, where appropriate, hearings inside and outside the country.

Good offices is a procedure for which the ILO is available whenever the need presents itself. An excellent example may be found in the follow-up to a complaint by Tunisia and a representation from Egyptian trade unions, following an expulsion of foreign migrant workers from the Libyan Arab Jamahiriya in 1985. The good offices of the ILO Director-General, carried out over a period of several years, contributed to the resolution of the claims of the expelled workers, the withdrawal of the complaints and the re-establishment of diplomatic relations.

III. Concluding remarks

The various methods used by the ILO are, as mentioned above, based on the idea that States wish to apply the Conventions they have ratified, but sometimes encounter difficulties in doing so. While all the methods mentioned are available in cases of complaints under the ILO's various complaints mechanisms, they are used much more frequently to resolve problems before they reach the stage of complaints. All of them involve the participation of the ILO's non-governmental constituents, the representatives of employers' and workers' organisations, as well as of governments.

A full account of the use of these various methods is given in each annual report of the Committee of Experts on the Application of Conventions and Recommendations.

Annex VIII

The contribution by non-governmental organizations to human rights: the ILO experience

The International Labour Organisation has a special experience in this area, as the only one of the organizations of the United Nations system which incorporates non-governmental partners fully within its structures and decision-making mechanisms. NGOs are also closely associated with the ILO's activities for assistance to member States and other constituents, standard-setting and supervision of standards, and all other phases of its procedures.

I. The concept of tripartism

The ILO is a tripartite organization. Governments are of course the only Members, but each country is represented in the International Labour Conference by delegates from the most representative organizations of employers and workers in the country as well as governmental delegates. Half the votes in the Conference - and two-thirds of the votes at the committee level in the Conference - are held by non-governmental delegates. Similarly, the Governing Body of the ILO is composed of 28 Government members, and of 14 employers' and 14 workers' representatives, all of whom serve on an equal footing. Workers' and employers' representatives may, for instance, be elected to the posts of Chairman of the Governing Body or President of the Conference.

Tripartism is integral to the ILO's work in other ways. Workers' and employers' representatives are also consulted and take an active part in all the ILO's work in member States. They are to be involved in all kinds of decisions taken in the Organization, and are actively involved in the provision of technical cooperation and of promotional activities concerning the ILO's standards and principles.

The present note will focus on their role in standard-setting and supervision; and on the role of NGOs in technical cooperation.

A distinction must be made between the two kinds of NGOs with which the ILO works. A special place is reserved to employers' and workers' representatives, which form part of national delegations to the ILO and have direct access to ILO's supervisory system for the implementation of standards, among other things. They are an integral part of the ILO's structure, in a fashion unique in the United Nations system. In addition, the ILO works with other NGOs so long as they share the objectives of the ILO and are concerned with one or more of its fields of concern. Finally, the ILO often works with NGOs at the national or regional level to assist in implementing its activities.

II. The Tripartite Consultation instruments

In 1976, the International Labour Conference translated the constitutional principles of involvement of its non-governmental partners into the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) and the Tripartite Consultation (Activities of the International Labour Organisation) Recommendation, 1976 (No. 154). The two instruments reflect the view that the social partners should be involved in all aspects of policy and implementation.

The Convention requires that employers' and workers' organisations be consulted when the government is preparing its own comments on draft ILO standards, and when it is submitting its reports to the competent national authorities on possible ratification or other action. They must be consulted in preparing the reports governments submit under these Conventions, and in any consideration of denouncing an ILO Convention. The Recommendation provides that they should be involved, at the design and implementation stage, in all activities the country undertakes together with the ILO, including technical cooperation most particularly.

These two instruments together form a powerful instrument for ensuring that governments involve employuers' and workers' representatives in decisions that affect them vitally.

III. The role of workers' and employers' organizations in standard-setting

Employers' and workers' representatives have an active role in setting ILO standards. First of all, the Governing Body of the International Labour Office, which sets the agenda for the International Labour Conference, is composed of half of government representatives, and one quarter of employers' and one quarter of workers' representatives. The non-governmental partners therefore have a large role already in selecting subjects for standard-setting.

In the process of adopting new ILO standards, questionnaires and draft instruments are sent to each government. Governments naturally are called upon to furnish replies and comments on them, but comments by employers' and workers' organizations, to which governments are supposed to furnish copies of the ILO reports, are given equal weight with those of governments. These organizations also participate on a fully equal basis with governments in the discussions in the Conference itself. Indeed, they represent two-thirds of the voting power in each of the committees established at the International Labour Conference to consider proposed standards. In addition, a new Convention or Recommendation may be adopted by the Conference only if it receives a two-thirds majority in the Plenary of the Conference; and as governments have only 50% of the votes this means that the non-governmental partners must also approve the new standards.

Other non-governmental organisations may, under certain circumstances, also take an active part in the consultation and discussion process, as they did in the procedures leading to the adoption of the Indigenous and Tribal Peoples Convention, 1989 (No. 169); but in general NGOs other than those of employers and workers have less access to the ILO's decision-making structures. Provision is made in the Standing Orders of the International Labour Conference, however, allowing for the possibility of representatives of non-governmental international organizations being present and making circulating statements on questions (other than administrative or financial questions) being considered by the Conference.

IV. The role of employers' and workers' organizations in supervisory activities

The ILO's non-governmental partners also have a special role in the supervision of the implementation of ILO standards. As outlined in another paper before the World Conference, [1] once a Convention has been ratified, the Government is required by article 22 of the ILO Constitution to submit an annual report on its implementation in law and in practice. Under article 23 of the Constitution, the Government is required to send a copy of its reports to the most representative organisations of employers and workers in the country, and they may make any comments they feel necessary, either through the Government or directly to the ILO.[2] This is an extremely important provision, as it gives them a direct role in the supervision of standards, and allows them to correct errors and supplement the information contained in government reports - or omitted from them. This possibility of commenting on governments' reports is being used with increasing frequency. For instance, in its 1992 report, the ILO Committee of Experts on the Application of Conventions and Recommendations noted that since its 1991 session, it had received 201 observations, including 48 from employers' organizations and 153 from workers' organizations, the highest number ever received.[3]

Employers' and workers' representatives have an even more direct role in another phase of ILO supervision. At the annual session of the International Labour Conference there is a standing Committee on the Application of Conventions and Recommendations, which reviews the report of the Committee of Experts. Like all Conference committees it is tripartite. Each year, this Committee invites some 50 or more governments to appear before it to discuss problems they have encountered in applying ratifying Conventions. The employers' and workers' representatives take a very active role in this committee, and indeed are more active than are government members in the dialogue with government representatives called before the Committee.

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[1] A/CONF.157/PC/6/Add.3.

[2] If the country has ratified the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), the Government is required to consult the employers' and workers' organisations at least once a year on its reports under article 22 and on related matters.

[3] Report of the Committee of Experts on the Application of Conventions and Recommendations, Report III (Part 4A), International Labour Conference, 79th Session, Geneva, 1992, paras. 99 to 104.

Employers' and workers' representatives also have special access to the ILO's complaints procedures. Any such organization may file a representation under article 24 of the ILO Constitution, alleging that a country is not ensuring the effective observance of a Convention that it has ratified. Representations are then examined by a tripartite committee of the Governing Body, and thus two of the three members of the committee are non-governmental.

Another complaints procedure, established by agreement between the ILO and the UN Economic and Social Council in 1951, is the Governing Body Committee on Freedom of Association. This committee - tripartite in nature, which three representatives of each of the groups in the Governing Body - receives complaints of violations of principles of freedom of association from employers' and workers' organizations. It is empowered to examine such complaints against any member State of the ILO, whether or not it has ratified any relevant Convention. Complaints can also be filed by employers' or workers' organizations against governments which are not Members of the ILO; and if the government concerned agrees these complaints may be examined by the Fact-Finding and Conciliation Commission on Freedom of Association. A recent instance in which this occurred was a complaint against South Africa filed by the Congress of South African Trade Unions, and examined by the ILO after the Government consented. This report was examined by ECOSOC in the July 1992 session, and the ILO was requested to continue following it up.

Finally, more than 80 ILO Conventions and more than 60 ILO Recommendations provide that representative organizations of employers and workers should be consulted in implementation the provisions of these international instruments.

This close involvement of non-governmental partners in the implementation of ILO Conventions, and in the supervision of compliance with them, provides a dimension to this that is absent when only governments are concerned. The additional sources of information, from those directly concerned with the subject under consideration, ensures that there is a check on information provided by governments, and an additional viewpoint that would not otherwise be available to the supervisory bodies.

V. The role of non-governmental organizations as partners in development

The ILO has long worked closely with NGOs in development assistance. The perceived relevance and comparative advantage of NGOs is based on their knowledge of local circumstances and close contacts to specific target groups. They increasingly play a major role in articulating the needs of the poor in their communities. As such they are often perceived, not only as effective communicators and channels for grass-roots oriented, or participatory development activities, but also as substitutes not only to government agencies but also to international aid organizations' own operations. ILO's Medium Term Plan 1990-95 clearly recognizes the need to foster closer links with NGOs in respect of a wide range of objectives,

the most paramount of which are human rights. It states:

> *Steps will also be taken to promote the ratification and application of international labour standards through technical co-operation activities and closer links will be developed between the Office and non-governmental and inter-governmental organisations working in areas connected with the ILO's human rights concerns.*

The ILO has, from its inception, co-operated with NGOs owing to its tripartite structure and constitutional mandate: workers' and employers' organizations, both nationally and internationally, are pre-eminent among NGOs as the ILO's constituents and are obvious partners in the development process. The ILO has also been closely associated with the co-operative movement since the 1920's.

In more recent years, the ILO has developed close collaboration with NGOs in the framework of implementing projects, which are designed with a particular focus on participation of project beneficiaries with various local associations. Indeed, the ILO has been a major proponent of the concept of a "participatory" approach and has undertaken much innovative research on collaboration with local grass roots self-help organizations, for example among the rural poor, indigenous communities, women's groups, and in the urban informal sector. Most of the operational activities in this regard have been innovative in nature, focussing on participatory rural development and the promotion of self-reliance of local communities. This approach was endorsed in the Resolution concerning the Role of the ILO in Technical Co-operation adopted in 1987 by the International Labour Conference (paragraph 28):

> *To enhance the impact of development efforts, it is essential to ensure the active participation of the population concerned. In this framework and in accordance with ILO's mandate and tripartite structure and in addition to its co-operation with employers' and workers' organisations, the ILO should involve a strategy aiming at maximum involvement of the poorest segments of the population in developing activities.*

Other significant ILO resolutions adopted over the last decade also highlight the role of NGOs and the need to work in harmony with them on developmental issues. Examples are the 1983 Resolution concerning Young People and the ILO's Contribution to International Youth Year; the 1985 Resolution concerning the Most Urgent Problems of Africa, and Particularly Food Security; and the 1990 Resolution concerning Self-Employment promotion.

In his report to the 75th Session of the International Labour Conference, Human Rights - A Common Responsibility, the Director-General outlined the conceptual premises on which ILO's technical cooperation was predicated:

> *While employers' and workers' organisations have a distinctive role to play as partners in discussions concerning employment questions and social and economic policy in general, they are not the only groups whose views should be taken into consideration. As I pointed out in my Report to the Conference in 1985, consultation may have to encompass a variety of other interests, such as the self-employed and generally*

those working in the rural sector. The Rural Workers' Organisations Convention and Recommendation of 1975 bring into relief the varied types of organisations which may be involved in that process.

A distinction should be made between NGOs as partners and collaborators/beneficiaries in ILO's operational activities, and NGOs as potential donors/co-financiers. As regards the social partners, greater attention is being paid the principle of tripartite participation which implies their active involvement in the design, programming and implementation of operational activities at the country level. Workers' and employers' organizations have also, among NGOs, been the largest beneficiaries of ILO technical cooperation funded by RBTC or from multi-bilateral sources. In developing countries workers' and employers' organizations will often play both the role of collaborator and co-financier, as well as beneficiary; activities are carried out jointly with them for the benefit of their membership; at the same time they are often able to contribute expertise in kind and cover part of the local costs.

In some cases, assistance is channelled to local, "grass-roots level" participatory groups to consolidate and strengthen their activities mainly in the forms of methodological research and training support, or specific project activities are sub-contracted to local NGOs as collaborators in project implementation. ILO technical cooperation activities have occasionally been financed by NGOs. This trend appears to be consolidating, as in many industrialised countries development NGOs have reached a degree of financial and technical maturity that allows them to play a greater role in assistance to developing countries. Channelling of official aid through NGOs in the donor countries is becoming a distinct feature of several donors' policies.

The ILO actively seeks to strengthen its collaboration with NGOs in their roles as partners/collaborators, donors/co-financiers, and/or beneficiaries. ILO's operational activities with NGOs take account of ILO's tripartite structure and mandate and endeavour to integrate, wherever appropriate, workers' and employers' organizations in the identification, preparation and implementation of programmes and projects. In his report to the 63rd Session of the International Labour Conference in 1977, Technical co-operation: new prospects and dimensions, the Director-General dealt with the complex issue of a broad-based approach to the development process. In the extract below he stated:

It should perhaps be stressed that if in the ILO the demand has been made for participation by employers and workers, this is so merely because these groups form an integral part of this Organisation. The principle of popular participation and involvement, as distinct from government management from above, is much broader; it applies to other non-governmental groups as well as to any country's citizens as such. Moreover, in the specific field of technical co-operation the principle need not to be limited to drawing up and monitoring country programmes; excellent arguments have often been advanced also for using a substantial proportion of the resources available for technical co-operation for the direct benefit of non-governmental bodies rather than for the exclusive use of government agencies. This idea again is of special interest of the ILO.

These comments retain their validity.

The criteria for selecting an NGO for collaboration should be based not only on its comparative advantage, in terms of substantive experience and effectiveness as a channel for delivering project inputs and activities. In all cases, the ILO must also ensure that the NGOs approached are voluntary and democratic in nature, that they share basic ILO principles and that they meet the requisite standards of capability and accountability.

As regards support to workers' and employers' organizations it should be noted that ILO can and does respond to such requests by virtue of its mandate and tripartite structure. Collaboration with other NGOs is carried out in the framework of its collaboration with grass-roots organizations at the country level. Work with NGOs at all levels is promoted in order to pursue participatory approaches to development in rural and urban areas. Assistance focuses on catalytic and facilitative roles. Among the substantive fields which lend themselves to such close co-operation are rural employment and income generation; rural training; integrating women in development; training youth for employment; rural technology; indigenous and tribal peoples; upgrading informal sector development; labour-intensive rural and urban infrastructure works; entrepreneurial training; and small enterprise and business creation.

VI. Concluding remarks

The ILO experience cannot be translated directly to the rest of the international system, as it is based on the fact that the ILO's institutional NGOs - employers' and workers' organizations - are part of the structure of the ILO itself. Nevertheless, the ILO's experience in this area cannot be ignored, and some lessons from the ILO may be applicable to the United Nations and other bodies working for human rights. The ILO also works closely with other NGOs, and this is relevant to other organizations.

The first lesson is that the closest possible involvement of NGOs in standard-setting, and in supervision of compliance with international obligations, if essential if these activities are to reflect a balanced viewpoint going beyond that of governments. They insert a degree of realism into discussions that may be lacking in less diversified fora.

Second, it is essential that those NGOs which have a bonafide interest in the question be involved closely. Selection of NGOs with sufficient interest and credibility may be difficult, but it is not impossible.

Finally, NGOs are also invaluable partners in development activities and in the improvement of respect for human rights in member States. They often have expertise and human resources that no international organisation can possibly match.

Annex IX

Inventory of human rights modalities of the United Nations system: The ILO's information and training activities

Reference is made to the document submitted by the ILO to the first session of the Preparatory Committee describing ILO action in terms of international labour standards (A/CONF.157/PC/6/Add.3).

As concerns the ILO's work in promoting human rights through technical cooperation, see the information submitted under objective 1, paragraph 6 of A/CONF.157/PC/20.

I. ILO action in training for human rights

Training in human rights is very prominent among the ILO's means of action.

A. Training in the system of international labour standards

The part of the ILO's work that corresponds most closely to that of the United Nations in human rights work, is concerned with the adoption and supervision of international labour standards. As explained in other documents before the World Conference, a large number of ILO Conventions cover questions of fundamental human rights such as freedom of association, discrimination, forced labour, child labour, the rights of indigenous and tribal peoples, and other subjects. Many others among the ILO's 173 Conventions and 180 Recommendations (as of the end of 1992) concern other subjects which correspond to the human rights objectives of the International Covenant on Economic, Social and Cultural Rights (especially Articles 6 to 10) such as the provision of a safe and healthy working environment, social security protection, minimum wages, and a host of other related subjects.

Extensive training in provided in the system of international labour standards, in order to assist governments, as well as employers' and workers' organisations, to comply with their constitutional obligations and to take advantage of their constitutional rights in connection with reporting on the application of Conventions and Recommendations. It is recalled that more than 2,000 reports on ratified Conventions are due from governments each year, and managing this complex task requires regular and extensive training of government officials, which is carried out by different parts of the ILO. The Department of International Labour Standards and Human Rights, for instance, regularly carries out a large programme of training at the national and regional levels, that includes several regional and sub-regional seminars, as well as national seminars. To this must be added the training carried out on a continuous basis by the ILO's Regional Advisers on International Labour Standards. The following extract from the Report of the Committee of Experts on the Application of Conventions and Recommendations[1] in 1992 covers a typical period of one year:

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[1] Paragraphs 70 to 73.

> The programme of courses and seminars designed to familiarise national labour administration officials and representatives of employers' and workers' organisations with the obligations of member States and the standards-related procedures of the ILO was continued. ... During 1991, 13 participants and 1 observer from the following 14 countries received training in the International Labour Standards Department: ... Since April 1991, several regional and subregional seminars have been organised on international labour standards: the Sixth Latin American Regional Seminar on National and International Labour Standards (San José, Costa Rica); a Sub-Regional Seminar on Freedom of Association (Brisbane, Australia); an Asian and Pacific Workshop on standards-related subjects (Kuala Lumpur, Malaysia); and a Tripartite Subregional Seminar for the Promotion of Equality of Opportunity and Treatment for Central and Eastern European Countries (Prague, Czechoslovakia). ... Cooperation activities and the promotion of standards also took place through participation in seminars (and particularly tripartite seminars), meetings, symposia and through the provision of advisory services on international labour standards in the following countries: (follows a list of 47 countries).

As indicated above, this applies to the Department of International Labour Standards and Human Rights. In addition, a number of other parts of the ILO carry out such training. The principal example is the Workers Education Service, responsible for training workers' organisations in how to manage trade unions and in how to take advantage of the possibilities offered by the international system; there is necessarily a focus on international labour standards in such training. The ILO also participates, through both aforementioned services, in training provided by others - in particular trade unions, universities and others - which include elements of training on ILO standards. Another major component of the ILO's training work in human rights is the International Training Centre operated by the ILO (Turin, Italy), which provides training in many areas for governments and others from around the world. International labour standards is an essential subject in the curricula of an increasing number of the courses taught by the Centre.

In the context of the programme to increase synergy between the ILO's standards and its technical cooperation activities, increased training in standards is being given to the ILO's own staff, both in Headquarters and in field locations, to allow them to take full account of standards in providing technical cooperation (see also under objective 1, paragraph 6).

Finally, the ILO has available a number of teaching and training modules and publications on various aspects of the system of adoption and supervision of standards. As examples, the booklet "International Labour Standards for Justice and Development" provides guidance for incorporating standards concerns into technical cooperation; and the course topic "Trade Union Participation in the ILO Supervisory System for the Protection of Trade Union Rights", is used for workers' education activities. (See also the list of ILO publications on human rights, attached to this document.)

B. Training on the contents of standards

The second objective of this training is to provide information on the contents and the application of selected ILO standards. This is done by the Department of International Labour Standards and Human Rights for those subjects for which it has technical responsibility for the substance, especially on freedom of association, discrimination, forced labour and indigenous and tribal peoples. The Standards Department often also works with other technical Departments of the ILO which provide training on their own technical subjects, or on which their competence is shared.

Thus, specialised training is provided on a regular basis on such subjects as equality of rights and freedom of association, as well as on maritime standards, safety and health protection and social security. The entire range of ILO standards is covered in such training, to which the ILO devotes a substantial proportion of its budget. This training is supplemented by many publications and course topics across the range of ILO action.

II. Information materials on human rights

A. ILO information services on human rights

Article 10 of the Constitution of the International Labour Organization provides that functions of the Office "shall include the collection and distribution of information on all subjects relating to the international adjustment of conditions of industrial life and labour....". In accordance with this mandate, the ILO provides publication and information services to both the Office and to ILO constituents.

B. ILO Publications on human rights

One of the subject areas of ILO publications is human rights, covering matters such as equality of rights, freedom of association, and abolition of forced labour. A list prepared by the ILO's International Labour Standards Department Documentation Centre lists titles of ILO publications in this category (copy attached). These include basic documentation of the ILO (Constitution, Compilation of Conventions and Recommendations), findings of ILO supervisory bodies, and information documents.

C. Central Library and Documentation Branch

The Central Library and Documentation Branch identifies, collects, processes, stores and disseminates information covering all areas of ILO competence, including information on human rights. Since 1965, library holdings have been recorded in a computerised catalogue called the LABORDOC data base, which currently contains over 180,000 bibliographic records. LABORDOC is searched by using the controlled vocabulary descriptors of the ILO Thesaurus. There are numerous descriptors in the Thesaurus relating to human rights. The services of reference librarians are available to access LABORDOC and provide bibliographies compiled according to personal search requirements. LABORDOC is also available on line to external users, through the ILIS (International Labour Information System) Referral System.

D. Labour law information services on human rights

The Labour Law Information Branch of the International Labour Standards Department (INF/LEG) provides research, publications, documentation and computerised information services on international and national labour, social security and related human rights laws. These services, referred to as LABORLEX, are part of ILIS.

LABORLEX consists of two separate computerised databases. The first is ILOLEX, a trilingual (English/French/Spanish) full text database containing over 37,000 documents on international labour standards, including various human rights questions. Information about these Conventions and Recommendations and their application can be found rapidly in ILOLEX by means of free text searches. The ILOLEX database is available in the form of a compact disc read-only memory (CD-ROM); and is also available on-line in ILO Headquarters in Geneva.

The second computerised database in the LABORLEX information system is NATLEX, which contains over 26,000 bibliographic records and documentation of labour, social security and related human rights legislation, with further records being added regularly. Searches by topic can be carried out in any of the three ILO working languages. For example, there are records categorized under the descriptor "human rights", and numerous other records may be found under the descriptors "discrimination", "forced labour", "equal opportunity" and "freedom of association".

Access to NATLEX can be obtained in several ways: by communicating with NATLEX on line from outside ILO headquarters through commercial data networks, or through the ILIS Referral system, subject to authorisation that may be obtained by contacting INF/LEG; by requesting that the results of searches or a given group of NATLEX records be copied onto diskettes; or by asking that INF/LEG provide such information in printed form.

INF/LEG also publishes Labour Law Documents, a periodical that consists of newly enacted legislation on labour, social security and human rights, three times a year in English, French and Spanish. Since 1990, LLD has published legislation from over 50 different countries, as well as international instruments such as newly adopted ILO Conventions and Recommendations.

The documentation centre administered by INF/LEG contains labour legislation of primary importance filed by country; texts of ILO Conventions and Recommendations; reports of the supervisory bodies on the application of Conventions and Recommendations; and other publications, articles and educational materials concerning such matters as equality for women. Copies of these documents are available to ILO constituents or the public upon request.

E. Other information services from the ILO

The ILO also publish many other materials which relate to various aspects of human rights. Among the most important are the ILO Statistical Yearbook, the World Labour Report and the International Labour Review.

F. Language versions of human rights instruments

Compilations of ILO Conventions and Recommendations are published by the ILO itself in English, French, Spanish, German and Russian. Many ILO instruments are also available in other languages, including Arabic and Chinese, and translations of selected standards have been made by governments into a wide variety of national languages.

Annex X

Technical assistance in the amendment of national legislation

The ILO's action in respect of human rights involves, as has been indicated in other studies before the World Conference, a combination of standards and practical assistance to member States. In recent years, in addition, energetic measures have been taken to ensure that these activities are carried out in close relation to each other, in a mutually-reinforcing way.

One of the ILO's most appreciated services to its constituents involves assistance in the drafting of national legislation within its fields of action. As has been explored elsewhere in these submissions, the adoption and implementation of labour law, at the national level and in accordance with the adoption of international labour standards, carries great impact on human rights observance.

Indeed, many violations of human rights take the form of action at the level of economic deprivation or of the imposition of disadvantages at the workplace: discrimination in employment, forced labour and slavery, freedom of association violations, child labour, abuses of migrant workers, and many other areas of human rights are protected essentially through labour legislation.

The United Nations has dealt with these issues in the International Covenant on Economic, Social and Cultural Rights in Articles 6 - 10; in the Convention on the Rights of the Child (Article 32 et al.); and in other human rights instruments adopted by the General Assembly. The ILO is responsible for international action to translate these general requirements into practical action at the national level through the 173 Conventions and 180 Recommendations it has adopted; and through technical advice and assistance.

Assistance with national legislative drafting is an integral part of the ILO's work, and is dealt with in the first instance by the Labour Law and Labour Relations Branch of the Industrial Relations and Labour Administration Department. That service, in a review of its programme of assistance to member States in labour legislation for the 1991-92 biennium alone, noted the following projects in an active or preparatory phase:

Assisting in drafting new legislation of amending existing legislation:	22 countries
Assistance to governments in commenting on draft labour legislation they have prepared:	29 countries

In addition to this, the Office is assisting the countries of the Caribbean in a project to harmonise their labour legislation, a major undertaking which will take several years to accomplish.

Note should be made of several instances in which national labour legislation has been drafted by the World Bank without ILO involvement, in at least two such cases, the governments concerned have invited comments from the ILO.

Links to international labour standards. In addition to providing assistance in the drafting of legislation, the Office's work in this area ensures that the advice it gives takes close account of international labour standards. Close relations exist between the Labour Law and Labour Relations Branch and the Department of International Labour Standards and Human Rights, and all advice given to governments in this domain is done in consultation between these services.

Other services of the ILO also provide advice and assistance on more specialised matters, which might include assistance in social security legislation, in law and regulations governing the situation of indigenous and tribal peoples, in maritime law, or in any of the other technical fields dealt with by the ILO.

Mention should be made also of the regular work of the Regional Advisers on International Labour Standards, Regional Advisers on Labour Legislation, and other regional advisers on a variety of technical subjects within the ILO's mandate. Their work includes regular visits to and consultations with member States of the ILO, and with the ILO's tripartite constituents, the employers' and workers' organizations in each country. These advisers frequently provide advice and assistance on amending national legislation to correspond to changing demands, and to the findings of ILO supervisory bodies for the implementation of Conventions and Recommendations.

There is therefore a constant flow of advice and assistance to member States in this area, which is closely tied to the standards adopted by the ILO and to the supervision of the implementation of these standards.

Annex XI

Streamlining reporting mechanisms and comparing and analysing procedures

A. The ILO's reporting mechanisms

The ILO's mechanisms and procedures for reporting on the implementation of standards are outlined in detail in the paper submitted to the first session of the Preparatory Committee for the World Conference (UN doc. A/CONF.157/PC/6/Add.3), and reference should be made to that document for descriptions of the ILO's procedures and their working. It is pertinent, however, to reproduce here the concluding remarks from that document in so far as they relate to the present subject:

Concluding remarks

On the basis of the explanations given above, certain concluding remarks may be made concerning the efficacy of the ILO's standard-setting and supervisory procedures. They contain elements which distinguish them from those of other international organisations, and which therefore may be of interest to the World Conference.

Institutional questions

Tripartism. The most important of these factors is undoubtedly the ILO's tripartite structure, at both national and international levels. This has two principal effects on the ILO's procedures:

- making available information and experience not readily available to a purely governmental organisation; and
- providing information and opinions which may differ from that given by governments.

Constitutional provisions on standards. The fact that ILO procedures concerning standards are laid down in the Organisation's constitution ensures that they remain consistent throughout the adoption and supervision of many instruments.

Regularity of procedure. The adoption and supervision of standards are a constant feature of the ILO's Conference and other bodies. This tends to ensure that consistent procedures are followed, and that both delegates and officials acquire expertise in the techniques. It also helps to ensure that different instruments on related subjects do not contradict each other, and are not interpreted in contradictory ways.

Adoption of standards

(not reproduced - see document A/CONF.157/PC/6/Add.3, paras. 42 - 46.)

Supervision

Unity of procedures. The importance of having a unified procedure cannot be exaggerated. The fact that all ratified Conventions, and constitutional requirements related to their implementation, are supervised by one Committee of Experts, Conference Committee and complaints procedure, has several implications. Time is saved during the adoption process by not having to discuss supervisory arrangements, and the risk of inconsistent procedures is avoided. There are questions of efficiency, with a smaller staff and less time required than would be the case for several parallel procedures. Information in a government's report on one instrument is available to the supervisory mechanism for all instruments, reducing the time that governments need for reporting, and the time that the Office needs for research. Most important, this ensures a consistent approach to the implementation of Conventions for each country, and the possibility of being able to examine the overall situation in the country more easily. This in turn allows standards and technical cooperation to be associated out more effectively.

Different levels of supervision. The initial stage of supervision of the implementation of ratified Conventions by a body of independent technical experts allows nearly all questions to be resolved at that stage. It is only after a thorough technical examination and attempt to resolve difficulties that a question comes before the Conference, and the previous technical examination allows an informed discussion to take place there. In turn, this results in the complaints procedures being used very infrequently.

Possibility of appeal to the International Court of Justice. In case of a dispute over the meaning of a Convention, the question can be referred to the International Court of Justice. Though almost never used, this remains a check on the consistency of the ILO's supervisory mechanisms with international law.

Assistance provided to constituents. The different kinds of assistance available to governments and to the ILO's non-governmental constituents, allows the resolution of many difficulties and the achievement of the goals laid down in ratified Conventions. In addition, the fact that most such assistance is not necessarily tied to allegations of abuses allows governments to have recourse to it more often and more easily.

Links between technical cooperation and standards. Combining the ILO's two principal working methods to achieve the goals laid down by the Conference, is an important factor in achieving results. While this is not always easy - there is a certain tension between different parts of the secretariat, and not all the ILO's constituents yet accept fully the renewed efforts in this direction - progress is beginning to be achieved.

B. Streamlining reporting and supervisory mechanisms

In the ILO. In the ILO, as in the United Nations, there have been attempts to streamline the reporting mechanisms in order not to place too great a burden on ratifying States, and on the supervisory mechanisms. It will be recalled that there are over 5,500 ratifications of the ILO's 173 Conventions, and that supervision touches also upon Recommendations, with complaints mechanisms of various sorts available as well. While the ILO Constitution calls for annual reports from each member State on all ratified Conventions, the procedure has twice been modified to call for detailed reports on ratified Conventions at longer intervals. In 1958 the procedure was modified a first time to a two-year reporting cycle, and in 1976 to a combined 2-year/4-year cycle (certain Conventions at 2-year intervals and others at 4-year intervals). In both cases there are safeguards allowing reports to be requested more frequently if necessary.

The present system requires some 2,000 reports to be dealt with each year by the ILO's Committee of Experts on the Application of Conventions and Recommendations, and of course the number increases steadily each year because of the growing number of ratifications and of member States. Thus reflection has begun on further modifications to the system in order to lighten the load, but this has not yet taken concrete form.

In the United Nations. Although the ILO will not comment on the periodicity of reporting under human rights instruments adopted by the United Nations - which is in any case laid down in individual instruments - it may be worthwhile making some suggestions on how the reporting burden can be reduced.

The use of Core documents is an excellent device, and the ILO supervisory bodies have begun taking the information in them into account in their examination of the application of ratified ILO Conventions.

Governments have been encouraged, under United Nations procedures, to refer to reports they have submitted to other United Nations bodies. It is suggested that, in many cases, they could also refer to reports made to the ILO under related Conventions, and send copies of these reports to the United Nations supervisory bodies. Similarly, reports to the ILO could refer to or include copies of reports made to United Nations supervisory bodies. It may be noted that in a number of cases, copies of government reports are already sent by the ILO to the United Nations Centre for Human Rights for its technical advice, in order to assist the ILO Committee of Experts in its supervisory task. Thus many of these reports, on selected Conventions, are already available to the United Nations secretariat and could be systematically exploited.

A practical obstacle to the suggestion made above is that most reports to the ILO are prepared by Ministries of Labour, and practical experience indicates that other ministries - including those which prepare reports to the United Nations on similar or related questions - are not necessarily aware that these reports have been made. One way of overcoming this would be for technical seminars and other forms of assistance to be provided to governments on a joint basis by the ILO and the Centre for Human Rights, in order to increase communications within governments as well as between them and the UN system, and between different UN system supervisory bodies.

Annex XII

Improving coordination and cooperation within the United Nations system

The ILO participates actively in the human rights work of the United Nations. It also invites the United Nations to take an active part in ILO supervisory work, in particular, as it does with a number of other intergovernmental organizations. This paper will first outline the present arrangements, and then go on to suggest some improvements that might be envisaged.

I. ILO human rights work with the United Nations

A. Treaty bodies

1. Committee on Economic, Social and Cultural Rights. The provisions of the Covenant which most closely concern the ILO are Articles 6 - 10, and whenever reports on these are due from ratifying States the ILO provides written information on how the country is complying with the related ILO Conventions it has ratified. This consists of information on the relevant ILO Conventions ratified by the country concerned, and copies of any comments on their application that may have been raised by ILO supervisory bodies. A representative of the Director-General also attends the Committee's sessions to present the information from the ILO and to participate as an observer in the examination by the Committee of the country's compliance. The ILO representative is also available to reply to any questions that may arise.

2. The Human Rights Committee. When a State's report on implementation of the International Covenant on Civil and Political Rights is due to be examined, the ILO provides information to the Committee on compliance only with a limited number of ILO Conventions (those concerning freedom of association, forced labour and discrimination). In accordance with the arrangements in force, the Committee does not request ILO participation in its sessions, though the Office is available to provide information if needed.

3. Convention on the Elimination of Racial Discrimination (CERD). The Office is represented at each annual session of the Committee on the Elimination of Racial Discrimination. The Committee receives copies of the most recent Report of the Committee of Experts for information, but no more active participation is allowed for. Of particular relevance to this Committee's work is the ILO Discrimination (Employment and Occupation) Convention, 1958 (No. 111). The ILO Indigenous and Tribal Populations Convention, 1957 (No. 107) and the Indigenous and Tribal Peoples Convention, 1989 (No. 169) are also being mentioned with increasing frequency.

4. Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). The ILO attends each session of the Committee in Vienna. The Office sends detailed analyses of the information it has for each State whose report is to be examined by the Committee, and takes part in the presessional working groups and the Committee itself when the country reports are examined. This Committee also is principally interested in ILO Convention No. 111, as well as the Equal Remuneration Convention, 1951 (No. 100).

5. Convention on the Rights of the Child. The ILO has been working with the Committee on the Rights of the Child to conclude arrangements for its participation in the work of this Committee, which focuses principally on questions related to article 32 on economic exploitation, but there are over 40 ILO Conventions concerned one way or another. Subject to confirmation the Committee on the Rights of the Child and by the ILO's deliberative bodies, it is expected that the ILO role will resemble that it plays in the Committee on Economic, Social and Cultural Rights.

6. Convention on the Protection of the Rights of all Migrant Workers and Members of their Families: Not yet in force. The ILO took a prominent part in the Convention's adoption, and when it comes into force arrangements will be discussed. The ILO's participation in supervision is provided for specifically in the Convention itself.

B. Other UN human rights bodies and activities

1. The UN Commission on Human Rights. Most specialised agencies and other UN-system bodies hold a watching brief in the Commission, and the ILO's participation depends on the subjects under discussion. A representative of the Director-General is available at all times to provide information, reply to questions about ILO activities of interest to the Commission, and gather information from the Commission for use in the ILO's own human rights work. The ILO also participates in the examination of possible new international standards which touch on the mandate of the ILO.

2. The Sub-Commission on Prevention of Discrimination and Protection of Minorities. The ILO role is the same as it is in the Commission on Human Rights. Information is provided regularly in a written submission to the Sub-Commission on ILO activities relevant to the subjects on the Sub-Commission's agenda.

3. Working Groups of the Sub-Commission.

- The Working Group on Contemporary Forms of Slavery is of particular interest to the ILO, as it covers questions dealt with in a number of ILO Conventions and in particular the Forced Labour Convention, 1930 (No. 29). The ILO and the Working Group collaborate actively in discussing questions of forced labour, child labour and related matters, and in attempting to find solutions to the problems raised.

- The Working Group on Indigenous Populations is currently drafting a "Universal Declaration on Indigenous Rights", in which the ILO is collaborating actively in virtue of its long involvement with this question. The ILO also provides information on the results of the supervision by the ILO the Indigenous and Tribal Populations Convention, 1957 (No. 107) and the Indigenous and Tribal Peoples Convention, 1989 (No. 169), as well as of related instruments.

3. Other ILO/UN human rights connections.

The ILO regularly replies to requests from the United Nations for information and comments on studies, reports and other matters, many of which touch human rights concerns. These will not be detailed, but responding to these requests occupies a considerable amount of time.

II. ILO participation in the human rights work of regional organizations

1. Council of Europe. Under procedures which have been in force for some years, the ILO regularly receives reports of governments on the European Code of Social Security and the Protocol thereto, from the Council of Europe, and the ILO Committee of Experts on the Application of Conventions and Recommendations examines them for conformity with the Code and Protocol. The ILO also collaborates with the Council of Europe, in an advisory capacity and in accordance with article 26 of the European Social Charter, in the Committee of Independent Experts set up to supervise the application of the Charter.

2. African Commission on Human and Peoples' Rights. The ILO is in discussion with the Commission to see in what form a cooperative relationship might be established. The ILO has recently prepared a Comparative Analysis of the African Charter on Human and Peoples' Rights, with ILO Conventions that deal with the same or related subjects.

3. Other regional organizations. The ILO also works in collaboration or co-operation with a number of other regional organizations, including the Organization of American States, the Organisation of African Unity, the Arab Labor Organization and others, within their shared mandates.

III. ILO Consultations with other intergovernmental organizations on human rights

1. Invitations to participate in standard-setting. The ILO regularly invites other organizations of the United Nations system to make any comment they feel are called for on draft instruments before the ILO Conference. In one recent instance, there was considerable collaboration, when the ILO adopted the Indigenous and Tribal Peoples Convention, 1989 (No. 169) following suggestions by the UN Sub-Commission on Prevention of Discrimination and Protection of Minorities and UNESCO meetings, and with the active participation of the United Nations, FAO, UNESCO and WHO as well as of the Inter-American Indian Institute.

2. Invitations to take part in supervision of ILO instruments. Under arrangements concluded with a number of other international organizations, reports received from governments of States which have ratified certain ILO Conventions are sent to these organizations for any comments or information they may wish to provide. These arrangements are as follows:

Convention	Organizations consulted
Indigenous and Tribal Populations, 1957 (No. 107) Indigenous and Tribal Peoples, 1989 (No. 169)	UN, FAO, UNESCO, WHO, Inter-American Indian Institute
Radiation Protection, 1960 (No. 115)	IAEA
Social Policy (Basic Aims and Standards), 1962 (No. 117)	UN, FAO, UNESCO
Prevention of Accidents (Seafarers), 1970 (No. 134) Merchant Shipping (Minimum Standards), 1976 (No. 147)	IMO
Rural Workers' Organisations, 1975 (No. 141)	UN, FAO, UNESCO
Human Resources Development, 1975 (No. 142)	UNESCO
Migrant Workers (Supplementary Provisions), 1975 (No. 143)	UN, UNESCO, WHO
Nursing Personnel, 1977 (No. 149)	WHO

These Organizations are also invited to attend the sessions of the Committee of Experts at which the Conventions in question are discussed. It may be mentioned, however, that it is rare that any of them replies to the request for information or comments.

IV. Relations between the ILO and the UN Centre for Human Rights

The ILO and the UN Centre for Human Rights have long had a cooperative relationship on all questions of interest to both organizations, and these arrangements continue. However, in recent years a more formal link has been established with the setting up a joint ILO/UN working group on human rights and technical cooperation. This working group, which has held a series of meetings over a two-year period, has identified a number of areas in which the two Organizations can work together more regularly.

For instance, a joint seminar on child bonded labour is taking place under the joint sponsorship of the ILO, the UN Centre for Human Rights and UNICEF. Originally called for by the UN Working Group on Contemporary Forms of Slavery, the idea was taken up the ILO and held in cooperation with the governments concerned and other international organizations.

It is planned to hold the first joint training course of UN Centre and ILO officials, before the World Conference takes place, in order to promote an exchange of expertise and to identify methods of increased cooperation which can be implemented in the future. No such course has been held previously.

It is also planned, at a time still to be determined, to hold a training course in incorporating human rights concerns into technical cooperation provided by the United Nations system, in a joint effort by the ILO and the UN Centre for Human Rights.

The Working Group has already identified and implemented a number of ways in which closer cooperation can be effective, including joint provision of human rights documentation to newly-established human rights centres at the national level, participation of each organization in training on human rights provided by the other, and a number of other matters.

V. Possible improvements in human rights coordination and cooperation within the United Nations system

It should first of all be stated that this question should not be restricted to the human rights activities of the UN system, though that should of course be the first target of improvements. The regional bodies dealing with human rights are very important in the definition, promotion and implementation of human rights, and they should be involved in the promotion of universal standards as well as of those adopted at the national level.

Within the UN system, there are various measures which might be contemplated.

1. Systematic training of staff. It is vital that the staff of the various organizations, which form the secretariats of all the human rights bodies, be fully informed of the human rights work of other bodies as well as of their own. The decision taken in this sense by the ILO and the UN Centre for Human Rights should be examined by all the UN system bodies, and the experience should be renewed periodically.

2. The Core document system. The excellent initiative to reduce repetitive reporting by governments of basic information concerning their own governmental systems and other information, should be extended and developed. It has been welcomed by the secretariat for the ILO's supervisory bodies, and will be kept up to date as core documents appear.

3. Non-duplication of reporting. Governments should ensure that they are not duplicating, in their reports to different bodies of the United Nations, or to different organizations in the UN system, information they have already submitted. In some cases, such reports are contradictory even when they emanate from the same government, as they often are prepared by different ministries for submission to different organizations. This will require internal coordination within governments.

4. Positions expressed in different organizations on similar subjects. Governments should also ensure that the views they express on subjects such as standard-setting, are consistent between different organizations. This also requires an effort of coordination inside governments, as different ministries may represent the government at different organizations.

5. Sharing of information and expertise. The ILO finds that it often contributes to the standard setting and examination of human rights questions in other organizations, but that other organizations do not always reply to its invitations to do likewise.

6. Respect for standards already established. It is essential that standard-setting move forward, and that decisions made in one body or organization are not undermined in others. There should therefore be careful attention to previous standards, adopted anywhere within the United Nations system, which contain provisions respecting human rights, in order not to undercut established law.

Annex XIII

UN Centre for Human Rights as a co-ordinating unit and focal point for human rights questions in the UN

I. As a co-ordinating unit for the human rights activities of the United Nations

The United Nations Centre for Human Rights should clearly be the co-ordinating unit for human rights questions in the United Nations itself. The Centre has the experience required in both the standard-setting and the supervisory sides of this task, which is necessary to guide the United Nations' work in human rights activities. Its resources would require reinforcement to assume this task fully.

It would be very desirable to have such a co-ordinating unit, as much of the United Nations' work involves one aspect of another of human rights. None of the United Nations' activities should be inconsistent with the standards the General Assembly has adopted; and this is best ensured through the Centre which is familiar with the Covenants and Conventions, as well as other human rights instruments, and with their implementation by the States which have ratified them.

The co-ordinating role should extend to other parts of the United Nations itself, including other United Nations bodies and organs. This would allow a central policy-making and supervisory role which is badly needed. It would also be efficient for the other parts of the United Nations and the United Nations system to be able to refer to one unit which is best suited to respond to questions and concerns in this area, and which is able to collate the demands of all the different instruments and the principles of the United Nations.

II. As a focal point for human rights activities throughout the United Nations system

Just as it is desirable that the human rights activities of the United Nations be co-ordinated centrally, it would be useful to have one body function as a focal point for the the coordination of the human rights activities of the UN system as a whole. This should not, however, be seen as a co-ordinating role, but rather as a central information point when the activities concerned go beyond those of the United Nations. Co-ordination of these activities across the system would require a great increase in the resources of the Centre. In addition, other parts of the UN system have different mandates and ways of working, and their independence should be preserved within the larger framework of the UN system. The ILO, for instance, is a distinct organisation within the UN system, with its own membership, mandate and structure. Nevertheless, it remains in close contact with the Centre for Human Rights and with the United Nations' standard-setting and supervisory bodies, and does all it can to ensure consistency of standards and of decisions of supervisory bodies. In this regard, the Centre's role as a focal point is very useful.

III. As a focal point for the activities of the United Nations system which have an effect on human rights

There should be serious consideration of the degree to which the human rights proclaimed and protected by the United Nations form the basis for all its activities. The answer to this question can then lead to the question of the involvement of the Centre for Human Rights in these activities. The ILO has given considerable attention to this point in its own work in recent times, and has come to the conclusion that the values and principles laid down in the standards it has adopted must form the basis for all its activities, of whatever nature. See the ILO contribution under objective 1, paragraph 6.

It is remarkable that the massive standard-setting and supervisory work carried out by the United Nations since its establishment has not had a corresponding influence on its development activities. The question of whether the activities of the other parts of the United Nations itself, and those of other parts of the United Nations system involved in development, reflect those values to which the international community has subscribed, will go far toward answering the question of the proper role of the Centre for Human Rights within the United Nations.

The ILO's recent deliberations in this regard have led to the conclusion that its technical assistance must in all cases be based on the standards it has adopted, or at least be consistent with those standards. The question of conditionality has been carefully considered and the concept discarded; it is rather that the standards adopted by the Organisation reflect the basic policies by which its work must be guided, and in addition form the basis and the essential justification for that work.

It will be apparent that if this concept were to be applied to the United Nations, it would imply that the financial and development institutions should work much more closely with the United Nations Centre for Human Rights in order to obtain guidance for those parts of their activities which affect the human rights of the populations of the countries in which they work. This would contribute to the wider dissemination of the values to which the United Nations member States have agreed, and to a greater coherence in the work of the United Nations system.

September 1992

Annex XIV

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